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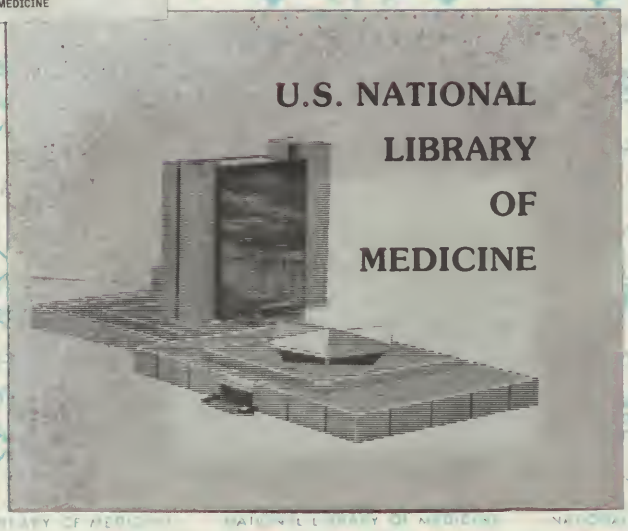

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Germany (Territory under Allied Occupation, 1945- U.S. Zone)
Military Tribunals

TRIALS

OF

WAR CRIMINALS

BEFORE THE

NUERNBERG MILITARY TRIBUNALS

UNDER

CONTROL COUNCIL LAW No. 10

VOLUME I

NUERNBERG

OCTOBER 1946–APRIL 1949

For sale by the Superintendent of Documents, U. S. Government Printing Office
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PREFACE

In April 1949, judgment was rendered in the last of the series of 12 Nuernberg war crimes trials which had begun in October 1946 and were held pursuant to Allied Control Council Law No. 10. Far from being of concern solely to lawyers, these trials are of especial interest to soldiers, historians, students of international affairs, and others. The defendants in these proceedings, charged with war crimes and other offenses against international penal law, were prominent figures in Hitler's Germany and included such outstanding diplomats and politicians as the State Secretary of the Foreign Office, von Weizsaecker, and cabinet ministers von Krosigk and Lammers; military leaders such as Field Marshals von Leeb, List, and von Kuechler; SS leaders such as Ohlendorf, Pohl, and Hildebrandt; industrialists such as Flick, Alfried Krupp, and the directors of I. G. Farben; and leading professional men such as the famous physician Gerhard Rose, and the jurist and Acting Minister of Justice, Schlegelberger.

In view of the weight of the accusations and the far-flung activities of the defendants, and the extraordinary amount of official contemporaneous German documents introduced in evidence, the records of these trials constitute a major source of historical material covering many events of the fateful years 1933 (and even earlier) to 1945, in Germany and elsewhere in Europe.

The Nuernberg trials under Law No. 10 were carried out under the direct authority of the Allied Control Council, as manifested in that law, which authorized the establishment of the Tribunals. The judicial machinery for the trials, including the Military Tribunals and the Office, Chief of Counsel for War Crimes, was prescribed by Military Government Ordinance No. 7 and was part of the occupation administration for the American zone, the Office of Military Government (OMGUS). Law No. 10, Ordinance No. 7, and other basic jurisdictional or administrative documents are printed in full hereinafter.

The proceedings in these trials were conducted throughout in the German and English languages, and were recorded in full by stenographic notes, and by electrical sound recording of all oral proceedings. The 12 cases required over 1,200 days of court proceedings and the transcript of these proceedings exceeds 330,000 pages, exclusive of hundreds of document books, briefs, etc. Publication of all of this material, accordingly, was quite unfeasible. This series, however, contains the indictments, judgments, and other important portions of the record of the 12 cases, and it is believed that these materials give a fair picture of the trials, and as full and illuminating a picture as is possible within the space available. Copies of the entire record of the trials are available in the Library of Congress, the National Archives, and elsewhere.

In some cases, due to time limitations, errors of one sort or another have crept into the translations which were available to the Tribunal. In other cases the

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same document appears in different trials, or even at different parts of the same trial, with variations in translation. For the most part these inconsistencies have been allowed to remain and only such errors as might cause misunderstanding have been corrected.

Volume I and part of Volume II of this series are dedicated to the first of the twelve cases, *United States vs. Karl Brandt, et al.* (Case No. 1). This trial has become known as the Medical Case, because 20 of the 23 defendants were doctors, and the charges related principally to medical experimentation on human beings. The remainder of Volume II is devoted to the trial of former Field Marshal Erhard Milch, who was also charged with criminal responsibilities for medical experimentation on human beings (of which charge he was acquitted), and with responsibility for the deportation to forced labor of numerous civilians, in violation of the laws of war (of which charge he was convicted).

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1	Karl Brandt, et al.	Medical Case	I and II
2	Erhard Milch	Milch Case	II
3	Josef Altstoetter, et al.	Justice Case	III
4	Oswald Pohl, et al.	Pohl Case	V
5	Friedrich Flick, et al.	Flick Case	VI
6	Carl Krauch, et al.	I. G. Farben Case	VII and VIII
7	Wilhelm List, et al.	Hostage Case	XI
8	Ulrich Greifelt, et al.	RuSHA Case	IV and V
9	Otto Ohlendorf, et al.	Einsatzgruppen Case	IV
10	Alfred Krupp, et al.	Krupp Case	IX
11	Ernst von Weizsaecker, et al.	Ministries Case	XII, XIII, and XIV
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DECLARATION ON GERMAN ATROCITIES

[Moscow Declaration]

Released November 1, 1943

THE UNITED KINGDOM, the United States and the Soviet Union have received from many quarters evidence of atrocities, massacres and cold-blooded mass executions which are being perpetrated by the Hitlerite forces in the many countries they have overrun and from which they are now being steadily expelled. The brutalities of Hitlerite domination are no new thing and all the peoples or territories in their grip have suffered from the worst form of government by terror. What is new is that many of these territories are now being redeemed by the advancing armies of the liberating Powers and that in their desperation, the recoiling Hitlerite Huns are redoubling their ruthless cruelties. This is now evidenced with particular clearness by monstrous crimes of the Hitlerites on the territory of the Soviet Union which is being liberated from the Hitlerites, and on French and Italian territory.

Accordingly, the aforesaid three allied Powers, speaking in the interests of the thirty-two [thirty-three] United Nations, hereby solemnly declare and give full warning of their declaration as follows:

At the time of the granting of any armistice to any government which may be set up in Germany, those German officers and men and members of the Nazi party who have been responsible for, or have taken a consenting part in the above atrocities, massacres, and executions, will be sent back to the countries in which their abominable deeds were done in order that they may be judged and punished according to the laws of these liberated countries and of the free governments which will be created therein. Lists will be compiled in all possible detail from all these countries having regard especially to the invaded parts of the Soviet Union, to Poland and Czechoslovakia, to Yugoslavia and Greece, including Crete and other islands, to Norway, Denmark, the Netherlands, Belgium, Luxemburg, France and Italy.

Thus, the Germans who take part in wholesale shootings of Italian officers or in the execution of French, Dutch, Belgian, or Norwegian hostages or of Cretan peasants, or who have shared in the slaughters inflicted on the people of Poland or in territories of the Soviet Union which are now being swept clear of the enemy, will know that they will be brought back to the scene of their crimes and judged on the spot by the peoples whom they have outraged. Let those who have hitherto not imbrued their hands with innocent blood beware lest they join the ranks of the guilty, for most assuredly the three allied Powers will pursue them to the uttermost ends of the earth and will deliver them to their accusers in order that justice may be done.

The above declaration is without prejudice to the case of the major criminals, whose offences have no particular geographical localisation and who will be punished by the joint decision of the Governments of the Allies.

[Signed]

Roosevelt
Churchill
Stalin

EXECUTIVE ORDER 9547

PROVIDING FOR REPRESENTATION OF THE UNITED STATES IN PREPARING AND PROSECUTING CHARGES OF ATROCITIES AND WAR CRIMES AGAINST THE LEADERS OF THE EUROPEAN AXIS POWERS AND THEIR PRINCIPAL AGENTS AND ACCESSORIES

By virtue of the authority vested in me as President and as Commander in Chief of the Army and Navy, under the Constitution and statutes of the United States, it is ordered as follows:

1. Associate Justice Robert H. Jackson is hereby designated to act as the Representative of the United States and as its Chief of Counsel in preparing and prosecuting charges of atrocities and war crimes against such of the leaders of the European Axis powers and their principal agents and accessories as the United States may agree with any of the United Nations to bring to trial before an international military tribunal. He shall serve without additional compensation but shall receive such allowance for expenses as may be authorized by the President.

2. The Representative named herein is authorized to select and recommend to the President or to the head of any executive department, independent establishment, or other federal agency necessary personnel to assist in the performance of his duties hereunder. The head of each executive department, independent establishment, and other federal agency is hereby authorized to assist the Representative named herein in the performance of his duties hereunder and to employ such personnel and make such expenditures, within the limits of appropriations now or hereafter available for the purpose, as the Representative named herein may deem necessary to accomplish the purposes of this order, and may make available, assign, or detail for duty with the Representative named herein such members of the armed forces and other personnel as may be requested for such purposes.

3. The Representative named herein is authorized to cooperate with, and receive the assistance of, any foreign Government to the extent deemed necessary by him to accomplish the purposes of this order.

HARRY S. TRUMAN

THE WHITE HOUSE,
May 2, 1945.

(F. R. Doc. 45–7256 ; Filed, May 3, 1945 ; 10 : 57 a. m.)

LONDON AGREEMENT OF 8 AUGUST 1945

AGREEMENT by the Government of the UNITED STATES OF AMERICA, the Provisional Government of the FRENCH REPUBLIC, the Government of the UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND and the Government of the UNION OF SOVIET SOCIALIST REPUBLICS for the Prosecution and Punishment of the MAJOR WAR CRIMINALS of the EUROPEAN AXIS

WHEREAS the United Nations have from time to time made declarations of their intention that War Criminals shall be brought to justice;

AND WHEREAS the Moscow Declaration of the 30th October 1943 on German atrocities in Occupied Europe stated that those German Officers and men and members of the Nazi Party who have been responsible for or have taken a consenting part in atrocities and crimes will be sent back to the countries in which their abominable deeds were done in order that they may be judged and punished according to the laws of these liberated countries and of the free Governments that will be created therein;

AND WHEREAS this Declaration was stated to be without prejudice to the case of major criminals whose offenses have no particular geographical location and who will be punished by the joint decision of the Governments of the Allies;

NOW THEREFORE the Government of the United States of America, the Provisional Government of the French Republic, the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Union of Soviet Socialist Republics (hereinafter called "the Signatories") acting in the interests of all the United Nations and by their representatives duly authorized thereto have concluded this Agreement.

Article 1. There shall be established after consultation with the Control Council for Germany an International Military Tribunal for the trial of war criminals whose offenses have no particular geographical location whether they be accused individually or in their capacity as members of organizations or groups or in both capacities.

Article 2. The constitution, jurisdiction and functions of the International Military Tribunal shall be those set out in the Charter annexed to this Agreement, which Charter shall form an integral part of this Agreement.

Article 3. Each of the Signatories shall take the necessary steps to make available for the investigation of the charges and trial the major war criminals detained by them who are to be tried by the International Military Tribunal. The Signatories shall also use their best endeavors to make available for investigation of the charges against and the trial before the International Military Tribunal such of the major war criminals as are not in the territories of any of the Signatories.

Article 4. Nothing in this Agreement shall prejudice the provisions established by the Moscow Declaration concerning the return of war criminals to the countries where they committed their crimes.

Article 5. Any Government of the United Nations may adhere to this Agreement by notice given through the diplomatic channel to the Government of the United Kingdom, who shall inform the other signatory and adhering Governments of each such adherence.

Article 6. Nothing in this Agreement shall prejudice the jurisdiction or the powers of any national or occupation court established or to be established in any allied territory or in Germany for the trial of war criminals.

Article 7. This agreement shall come into force on the day of signature and shall remain in force for the period of one year and shall continue thereafter, subject to the right of any Signatory to give, through the diplomatic channel, one month's notice of intention to terminate it. Such termination shall not prejudice any proceedings already taken or any findings already made in pursuance of this Agreement.

IN WITNESS WHEREOF the Undersigned have signed the present Agreement.

DONE in quadruplicate in London this 8th day of August 1945 each in English, French and Russian, and each text to have equal authenticity.

For the Government of the United States of America
ROBERT H. JACKSON

For the Provisional Government of the French Republic
ROBERT FALCO

For the Government of the United Kingdom of Great Britain and Northern Ireland
JOWITT, C.

For the Government of the Union of Soviet Socialist Republics
I. NIKITCHENKO
A. TRAININ

CHARTER OF THE INTERNATIONAL MILITARY TRIBUNAL

I. CONSTITUTION OF THE INTERNATIONAL MILITARY TRIBUNAL

Article 1. In pursuance of the Agreement signed on the 8th day of August 1945 by the Government of the United States of America, the Provisional Government of the French Republic, the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Union of Soviet Socialist Republics, there shall be established an International Military Tribunal (hereinafter called "the Tribunal") for the just and prompt trial and punishment of the major war criminals of the European Axis.

Article 2. The Tribunal shall consist of four members, each with an alternate. One member and one alternate shall be appointed by each of the Signatories. The alternates shall, so far as they are able, be present at all sessions of the Tribunal. In case of illness of any member of the Tribunal or his incapacity for some other reason to fulfill his functions, his alternate shall take his place.

Article 3. Neither the Tribunal, its members nor their alternates can be challenged by the prosecution, or by the Defendants or their Counsel. Each Signatory may replace its member of the Tribunal or his alternate for reasons of health or for other good reasons, except that no replacement may take place during a Trial, other than by an alternate.

Article 4.

(*a*) The presence of all four members of the Tribunal or the alternate for any absent member shall be necessary to constitute the quorum.

(*b*) The members of the Tribunal shall, before any trial begins, agree among themselves upon the selection from their number of a President, and the President shall hold office during that trial, or as may otherwise be agreed by a vote of not less than three members. The principle of rotation of presidency for successive trials is agreed. If, however, a session of the Tribunal takes place on the territory of one of the four Signatories, the representative of that Signatory on the Tribunal shall preside.

(*c*) Save as aforesaid the Tribunal shall take decisions by a majority vote and in case the votes are evenly divided, the vote of the President shall be decisive; provided always that convictions and sentences shall only be imposed by affirmative votes of at least three members of the Tribunal.

Article 5. In case of need and depending on the number of the matters to be tried, other Tribunals may be set up; and the establishment, functions, and procedure of each Tribunal shall be identical, and shall be governed by this Charter.

II. JURISDICTION AND GENERAL PRINCIPLES

Article 6. The Tribunal established by the Agreement referred to in Article 1 hereof for the trial and punishment of the major war criminals of the European Axis countries shall have the power to try and punish persons who, acting in the interests of the European Axis countries, whether as individuals or as members of organizations, committed any of the following crimes.

The following acts, or any of them, are crimes coming within the jurisdiction of the Tribunal for which there shall be individual responsibility:

(*a*) CRIMES AGAINST PEACE: namely, planning, preparation, initiation or waging of a war of aggression, or a war in violation of international treaties, agreements or assurances, or participation in a common plan or conspiracy for the accomplishment of any of the foregoing;

(*b*) WAR CRIMES: namely, violations of the laws or customs of war. Such violations shall include, but not be limited to, murder, ill-treatment or de-

portation to slave labor or for any other purpose of civilian population of or in occupied territory, murder or ill-treatment of prisoners of war or persons on the seas, killing of hostages, plunder of public or private property, wanton destruction of cities, towns or villages, or devastation not justified by military necessity;

(c) CRIMES AGAINST HUMANITY: namely, murder, extermination, enslavement, deportation, and other inhumane acts committed against any civilian population, before or during the war; or persecutions on political, racial or religious grounds in execution of or in connection with any crime within the jurisdiction of the Tribunal, whether or not in violation of the domestic law of the country where perpetrated.[1]

Leaders, organizers, instigators and accomplices participating in the formulation or execution of a common plan or conspiracy to commit any of the foregoing crimes are responsible for all acts performed by any persons in execution of such plan.

Article 7. The official position of defendants, whether as Heads of State or responsible officials in Government Departments, shall not be considered as freeing them from responsibility or mitigating punishment.

Article 8. The fact that the Defendant acted pursuant to order of his Government or of a superior shall not free him from responsibility, but may be considered in mitigation of punishment if the Tribunal determines that justice so requires.

Article 9. At the trial of any individual member of any group or organization the Tribunal may declare (in connection with any act of which the individual may be convicted) that the group or organization of which the individual was a member was a criminal organization.

After receipt of the Indictment the Tribunal shall give such notice as it thinks fit that the prosecution intends to ask the Tribunal to make such declaration and any member of the organization will be entitled to apply to the Tribunal for leave to be heard by the Tribunal upon the question of the criminal character of the organization. The Tribunal shall have power to allow or reject the application. If the application is allowed, the Tribunal may direct in what manner the applicants shall be represented and heard.

Article 10. In cases where a group or organization is declared criminal by the Tribunal, the competent national authority of any Signatory shall have the right to bring individuals to trial for membership therein before national, military or occupation courts. In any such case the criminal nature of the group or organization is considered proved and shall not be questioned.

Article 11. Any person convicted by the Tribunal may be charged before a national, military or occupation court, referred to in Article 10 of this Charter, with a crime other than of membership in a criminal group or organization and such court may, after convicting him, impose upon him punishment independent of and additional to the punishment imposed by the Tribunal for participation in the criminal activities of such group or organization.

Article 12. The Tribunal shall have the right to take proceedings against a person charged with crimes set out in Article 6 of this Charter in his absence, if he has not been found or if the Tribunal, for any reason, finds it necessary, in the interests of justice, to conduct the hearing in his absence.

Article 13. The Tribunal shall draw up rules for its procedure. These rules shall not be inconsistent with the provisions of this Charter.

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[1] See proctocol p. XV for correction of this paragraph.

III. COMMITTEE FOR THE INVESTIGATION AND PROSECUTION OF MAJOR WAR CRIMINALS

Article 14. Each Signatory shall appoint a Chief Prosecutor for the investigation of the charges against and the prosecution of major war criminals.

The Chief Prosecutors shall act as a committee for the following purposes:

(*a*) to agree upon a plan of the individual work of each of the Chief Prosecutors and his staff,

(*b*) to settle the final designation of major war criminals to be tried by the Tribunal,

(*c*) to improve the Indictment and the documents to be submitted therewith,

(*d*) to lodge the Indictment and the accompanying documents with the Tribunal,

(*e*) to draw up and recommend to the Tribunal for its approval draft rules of procedure, contemplated by Article 13 of this Charter. The Tribunal shall have power to accept, with or without amendments, or to reject, the rules so recommended.

The Committee shall act in all the above matters by a majority vote and shall appoint a Chairman as may be convenient and in accordance with the principle of rotation: provided that if there is an equal division of vote concerning the designation of a Defendant to be tried by the Tribunal, or the crimes with which he shall be charged, that proposal will be adopted which was made by the party which proposed that the particular Defendant be tried, or the particular charges be preferred against him.

Article 15. The Chief Prosecutors shall individually, and acting in collaboration with one another, also undertake the following duties:

(*a*) investigation, collection, and production before or at the Trial of all necessary evidence,

(*b*) the preparation of the Indictment for approval by the Committee in accordance with paragraph (*c*) of Article 14 hereof,

(*c*) the preliminary examination of all necessary witnesses and of the Defendants,

(*d*) to act as prosecutor at the Trial,

(*e*) to appoint representatives to carry out such duties as may be assigned to them,

(*f*) to undertake such other matters as may appear necessary to them for the purposes of the preparation for and conduct of the Trial.

It is understood that no witness or Defendant detained by any Signatory shall be taken out of the possession of that Signatory without its assent.

IV. FAIR TRIAL FOR DEFENDANTS

Article 16. In order to ensure fair trial for the Defendants, the following procedure shall be followed:

(*a*) The Indictment shall include full particulars specifying in detail the charges against the Defendants. A copy of the Indictment and of all the documents lodged with the Indictment, translated into a language which he understands, shall be furnished to the Defendant at a reasonable time before the Trial.

(*b*) During any preliminary examination or trial of a Defendant he shall have the right to give any explanation relevant to the charges made against him.

(*c*) A preliminary examination of a Defendant and his Trial shall be conducted in, or translated into, a language which the Defendant understands.

(*d*) A defendant shall have the right to conduct his own defense before the Tribunal or to have the assistance of Counsel.

(*e*) A defendant shall have the right through himself or through his Counsel to present evidence at the Trial in support of his defense, and to cross-examine any witness called by the Prosecution.

V. POWERS OF THE TRIBUNAL AND CONDUCT OF THE TRIAL

Article 17. The Tribunal shall have the power

(*a*) to summon witnesses to the Trial and to require their attendance and testimony and to put questions to them,

(*b*) to interrogate any Defendant,

(*c*) to require the production of documents and other evidentiary material,

(*d*) to administer oaths to witnesses,

(*e*) to appoint officers for the carrying out of any task designated by the Tribunal including the power to have evidence taken on commission.

Article 18. The Tribunal shall

(*a*) confine the Trial strictly to an expeditious hearing of the issues raised by the charges,

(*b*) take strict measures to prevent any action which will cause unreasonable delay, and rule out irrelevant issues and statements of any kind whatsoever,

(*c*) deal summarily with any contumacy, imposing appropriate punishment, including exclusion of any Defendant or his Counsel from some or all further proceedings, but without prejudice to the determination of the charges.

Article 19. The Tribunal shall not be bound by technical rules of evidence. It shall adopt and apply to the greatest possible extent expeditious and non-technical procedure, and shall admit any evidence which it deems to have probative value.

Article 20. The Tribunal may require to be informed of the nature of any evidence before it is offered so that it may rule upon the relevance thereof.

Article 21. The Tribunal shall not require proof of facts of common knowledge but shall take judicial notice thereof. It shall also take judicial notice of official governmental documents and reports of the United Nations, including the acts and documents of the committees set up in the various allied countries for the investigation of war crimes, and the records and findings of military or other Tribunals of any of the United Nations.

Article 22. The permanent seat of the Tribunal shall be in Berlin. The first meetings of the members of the Tribunal and of the Chief Prosecutors shall be held at Berlin in a place to be designated by the Control Council for Germany. The first trial shall be held at Nuremberg, and any subsequent trials shall be held at such places as the Tribunal may decide.

Article 23. One or more of the Chief Prosecutors may take part in the prosecution at each Trial. The function of any Chief Prosecutor may be discharged by him personally, or by any person or persons authorized by him.

The function of Counsel for a Defendant may be discharged at the Defendant's request by any Counsel professionally qualified to conduct cases before the Courts of his own country, or by any other person who may be specially authorized thereto by the Tribunal.

Article 24. The proceedings at the Trial shall take the following course:

(*a*) The Indictment shall be read in court.

(*b*) The Tribunal shall ask each Defendant whether he pleads "guilty" or "not guilty".

(*c*) The Prosecution shall make an opening statement.

(*d*) The Tribunal shall ask the Prosecution and the Defense what evidence (if any) they wish to submit to the Tribunal, and the Tribunal shall rule upon the admissibility of any such evidence.

(*e*) The witnesses for the Prosecution shall be examined and after that the witnesses for the Defense. Thereafter such rebutting evidence as may be held by the Tribunal to be admissible shall be called by either the Prosecution or the Defense.

(*f*) The Tribunal may put any question to any witness and to any Defendant, at any time.

(*g*) The Prosecution and the Defense shall interrogate and may cross-examine any witnesses and any Defendant who gives testimony.

(*h*) The Defense shall address the court.

(*i*) The Prosecution shall address the court.

(*j*) Each Defendant may make a statement to the Tribunal.

(*k*) The Tribunal shall deliver judgment and pronounce sentence.

Article 25. All official documents shall be produced, and all court proceedings conducted, in English, French and Russian, and in the language of the Defendant. So much of the record and of the proceedings may also be translated into the language of any country in which the Tribunal is sitting, as the Tribunal considers desirable in the interests of justice and public opinion.

VI. JUDGMENT AND SENTENCE

Article 26. The judgment of the Tribunal as to the guilt or the innocence of any Defendant shall give the reasons on which it is based, and shall be final and not subject to review.

Article 27. The Tribunal shall have the right to impose upon a Defendant, on conviction, death or such other punishment as shall be determined by it to be just.

Article 28. In addition to any punishment imposed by it, the Tribunal shall have the right to deprive the convicted person of any stolen property and order its delivery to the Control Council for Germany.

Article 29. In case of guilt, sentences shall be carried out in accordance with the orders of the Control Council for Germany, which may at any time reduce or otherwise alter the sentences, but may not increase the severity thereof. If the Control Council for Germany, after any Defendant has been convicted and sentenced, discovers fresh evidence which, in its opinion, would found a fresh charge against him, the Council shall report accordingly to the Committee established under Article 14 hereof, for such action as they may consider proper, having regard to the interests of justice.

VII. EXPENSES

Article 30. The expenses of the Tribunal and of the Trials, shall be charged by the Signatories against the funds allotted for maintenance of the Control Council for Germany.

PROTOCOL

Whereas an Agreement and Charter regarding the Prosecution of War Criminals was signed in London on the 8th August 1945, in the English, French, and Russian languages,

And whereas a discrepancy has been found to exist between the originals of Article 6, paragraph (*c*), of the Charter in the Russian language, on the one hand, and the originals in the English and French languages, on the other, to wit, the semi-colon in Article 6, paragraph (*c*), of the Charter between the words "war" and "or", as carried in the English and French texts, is a comma in the Russian text,

and whereas it is desired to rectify this discrepancy:

Now, THEREFORE, the undersigned, signatories of the said Agreement on behalf of their respective Governments, duly authorized thereto, have agreed that Article 6, paragraph (*c*), of the Charter in the Russian text is correct, and that the meaning and intention of the Agreement and Charter require that the said semi-colon in the English text should be changed to a comma, and that the French text should be amended to read as follows:

(*c*) LES CRIMES CONTRE L'HUMANITE: c'est à dire l'assassinat, l'extermination, la réduction en esclavage, la déportation, et tout autre acte inhumain commis contre toutes populations civiles, avant ou pendant la guerre, ou bien les persécutions pour des motifs politiques, raciaux, ou réligieux, lorsque ces actes ou persécutions, qu'ils aient constitué ou non une violation du droit interne du pays où ils ont été perpétrés, ont été commis à la suite de tout crime rentrant dans la compétence du Tribunal, ou en liaison avec ce crime.

IN WITNESS WHEREOF the Undersigned have signed the present Protocol.

DONE in quadruplicate in Berlin this 6th day of October, 1945, each in English, French, and Russian, and each text to have equal authenticity.

For the Government of the United States of America
ROBERT H. JACKSON

For the Provisional Government of the French Republic
FRANÇOIS DE MENTHON

For the Government of the United Kingdom of Great Britain and Northern Ireland
HARTLEY SHAWCROSS

For the Government of the Union of Soviet Socialist Republics
R. RUDENKO

CONTROL COUNCIL LAW NO. 10

PUNISHMENT OF PERSONS GUILTY OF WAR CRIMES, CRIMES AGAINST PEACE AND AGAINST HUMANITY

In order to give effect to the terms of the Moscow Declaration of 30 October 1943 and the London Agreement of 8 August 1945, and the Charter issued pursuant thereto and in order to establish a uniform legal basis in Germany for the prosecution of war criminals and other similar offenders, other than those dealt with by the International Military Tribunal, the Control Council enacts as follows:

Article I

The Moscow Declaration of 30 October 1943 "Concerning Responsibility of Hitlerites for Committed Atrocities" and the London Agreement of 8 August 1945 "Concerning Prosecution and Punishment of Major War Criminals of the European Axis" are made integral parts of this Law. Adherence to the provisions of the London Agreement by any of the United Nations, as provided for

in Article V of that Agreement, shall not entitle such Nation to participate or interfere in the operation of this Law within the Control Council area of authority in Germany.

Article II

1. Each of the following acts is recognized as a crime:

(*a*) *Crimes against Peace.* Initiation of invasions of other countries and wars of aggression in violation of international laws and treaties, including but not limited to planning, preparation, initiation or waging a war of aggression, or a war of violation of international treaties, agreements or assurances, or participation in a common plan or conspiracy for the accomplishment of any of the foregoing.

(*b*) *War Crimes.* Atrocities or offences against persons or property constituting violations of the laws or customs of war, including but not limited to, murder, ill treatment or deportation to slave labour or for any other purpose, of civilian population from occupied territory, murder or ill treatment of prisoners of war or persons on the seas, killing of hostages, plunder of public or private property, wanton destruction of cities, towns or villages, or devastation not justified by military necessity.

(*c*) *Crimes against Humanity.* Atrocities and offences, including but not limited to murder, extermination, enslavement, deportation, imprisonment, torture, rape, or other inhumane acts committed against any civilian population, or persecutions on political, racial or religious grounds whether or not in violation of the domestic laws of the country where perpetrated.

(*d*) Membership in categories of a criminal group or organization declared criminal by the International Military Tribunal.

2. Any person without regard to nationality or the capacity in which he acted, is deemed to have committed a crime as defined in paragraph 1 of this Article, if he was (*a*) a principal or (*b*) was an accessory to the commission of any such crime or ordered or abetted the same or (*c*) took a consenting part therein or (*d*) was connected with plans or enterprises involving its commission or (*e*) was a member of any organization or group connected with the commission of any such crime or (*f*) with reference to paragraph 1 (*a*), if he held a high political, civil or military (including General Staff) position in Germany or in one of its Allies, co-belligerents or satellites or held high position in the financial, industrial or economic life of any such country.

3. Any person found guilty of any of the Crimes above mentioned may upon conviction be punished as shall be determined by the tribunal to be just. Such punishment may consist of one or more of the following:

(*a*) Death.

(*b*) Imprisonment for life or a term of years, with or without hard labour.

(*c*) Fine, and imprisonment with or without hard labour, in lieu thereof.

(*d*) Forfeiture of property.

(*e*) Restitution of property wrongfully acquired.

(*f*) Deprivation of some or all civil rights.

Any property declared to be forfeited or the restitution of which is ordered by the Tribunal shall be delivered to the Control Council for Germany, which shall decide on its disposal.

4. (*a*) The official position of any person, whether as Head of State or as a responsible official in a Government Department, does not free him from responsibility for a crime or entitle him to mitigation of punishment.

(*b*) The fact that any person acted pursuant to the order of his Government or of a superior does not free him from responsibility for a crime, but may be considered in mitigation.

5. In any trial or prosecution for a crime herein referred to, the accused shall not be entitled to the benefits of any statute of limitation in respect of the period from 30 January 1933 to 1 July 1945, nor shall any immunity, pardon or amnesty granted under the Nazi regime be admitted as a bar to trial or punishment.

Article III

1. Each occupying authority, within its Zone of occupation,

(*a*) shall have the right to cause persons within such Zone suspected of having committed a crime, including those charged with crime by one of the United Nations, to be arrested and shall take under control the property, real and personal, owned or controlled by the said persons, pending decisions as to its eventual disposition.

(*b*) shall report to the Legal Directorate the names of all suspected criminals, the reasons for and the places of their detention, if they are detained, and the names and location of witnesses.

(*c*) shall take appropriate measures to see that witnesses and evidence will be available when required.

(*d*) shall have the right to cause all persons so arrested and charged, and not delivered to another authority as herein provided, or released, to be brought to trial before an appropriate tribunal. Such tribunal may, in the case of crimes committed by persons of German citizenship or nationality against other persons of German citizenship or nationality, or stateless persons, be a German Court, if authorized by the occupying authorities.

2. The tribunal by which persons charged with offenses hereunder shall be tried and the rules and procedure thereof shall be determined or designated by each Zone Commander for his respective Zone. Nothing herein is intended to, or shall impair or limit the jurisdiction or power of any court or tribunal now or hereafter established in any Zone by the Commander thereof, or of the International Military Tribunal established by the London Agreement of 8 August 1945.

3. Persons wanted for trial by an International Military Tribunal will not be tried without the consent of the Committee of Chief Prosecutors. Each Zone Commander will deliver such persons who are within his Zone to that committee upon request and will make witnesses and evidence available to it.

4. Persons known to be wanted for trial in another Zone or outside Germany will not be tried prior to decision under Article IV unless the fact of their apprehension has been reported in accordance with Section 1 (*b*) of this Article, three months have elapsed thereafter, and no request for delivery of the type contemplated by Article IV has been received by the Zone Commander concerned.

5. The execution of death sentences may be deferred by not to exceed one month after the sentence has become final when the Zone Commander concerned has reason to believe that the testimony of those under sentence would be of value in the investigation and trial of crimes within or without his Zone.

6. Each Zone Commander will cause such effect to be given to the judgments of courts of competent jurisdiction, with respect to the property taken under his control pursuant hereto, as he may deem proper in the interest of justice.

Article IV

1. When any person in a Zone in Germany is alleged to have committed a crime, as defined in Article II, in a country other than Germany or in another Zone, the government of that nation or the Commander of the latter Zone, as the case may be, may request the Commander of the Zone in which the person is located for his arrest and delivery for trial to the country or Zone in which

the crime was committed. Such request for delivery shall be granted by the Commander receiving it unless he believes such person is wanted for trial or as a witness by an International Military Tribunal, or in Germany, or in a nation other than the one making the request, or the Commander is not satisfied that delivery should be made, in any of which cases he shall have the right to forward the said request to the Legal Directorate of the Allied Control Authority. A similar procedure shall apply to witnesses, material exhibits and other forms of evidence.

2. The Legal Directorate shall consider all requests referred to it, and shall determine the same in accordance with the following principles, its determination to be communicated to the Zone Commander.

(*a*) A person wanted for trial or as a witness by an International Military Tribunal shall not be delivered for trial or required to give evidence outside Germany, as the case may be, except upon approval of the Committee of Chief Prosecutors acting under the London Agreement of 8 August 1945.

(*b*) A person wanted for trial by several authorities (other than an International Military Tribunal) shall be disposed of in acordance with the following priorities:

(1) If wanted for trial in the Zone in which he is, he should not be delivered unless arrangements are made for his return after trial elsewhere;

(2) If wanted for trial in a Zone other than that in which he is, he should be delivered to that Zone in preference to delivery outside Germany unless arrangements are made for his return to that Zone after trial elsewhere;

(3) If wanted for trial outside Germany by two or more of the United Nations, of one of which he is a citizen, that one should have priority;

(4) If wanted for trial outside Germany by several countries, not all of which are United Nations, United Nations should have priority;

(5) If wanted for trial outside Germany by two or more of the United Nations, then, subject to Article IV 2 (*b*) (3) above, that which has the most serious charges against him, which are moreover supported by evidence, should have priority.

Article V

The delivery, under Article IV of this Law, of persons for trial shall be made on demands of the Governments or Zone Commanders in such a manner that the delivery of criminals to one jurisdiction will not become the means of defeating or unnecessarily delaying the carrying out of justice in another place. If within six months the delivered person has not been convicted by the Court of the zone or country to which he has been delivered, then such person shall be returned upon demand of the Commander of the Zone where the person was located prior to delivery.

Done at Berlin, 20 December 1945.

JOSEPH T. MCNARNEY
General
B. L. MONTGOMERY
Field Marshal
L. KOELTZ
General de Corps d'Armée
for P. KOENIG
General d'Armee
G. ZHUKOV
Marshal of the Soviet Union

EXECUTIVE ORDER 9679

AMENDMENT OF EXECUTIVE ORDER NO. 9547 OF MAY 2, 1945, ENTITLED "PROVIDING FOR REPRESENTATION OF THE UNITED STATES IN PREPARING AND PROSECUTING CHARGES OF ATROCITIES AND WAR CRIMES AGAINST THE LEADERS OF THE EUROPEAN AXIS POWERS AND THEIR PRINCIPAL AGENTS AND ACCESSORIES"

By virtue of the authority vested in me as President and Commander in Chief of the Army and Navy, under the Constitution and statutes of the United States, it is ordered as follows:

1. In addition to the authority vested in the Representative of the United States and its Chief of Counsel by Paragraph 1 of Executive Order No. 9547 of May 2, 1945, to prepare and prosecute charges of atrocities and war crimes against such of the leaders of the European Axis powers and their accessories as the United States may agree with any of the United Nations to bring to trial before an international military tribunal, such Representative and Chief of Counsel shall have the authority to proceed before United States military or occupation tribunals, in proper cases, against other Axis adherents, including but not limited to cases against members of groups and organizations declared criminal by the said international military tribunal.

2. The present Representative and Chief of Counsel is authorized to designate a Deputy Chief of Counsel, to whom he may assign responsibility for organizing and planning the prosecution of charges of atrocities and war crimes, other than those now being prosecuted as Case No. 1 in the international military tribunal, and, as he may be directed by the Chief of Counsel, for conducting the prosecution of such charges of atrocities and war crimes.

3. Upon vacation of office by the present Representative and Chief of Counsel, the functions, duties, and powers of the Representative of the United States and its Chief of Counsel, as specified in the said Executive Order No. 9547 of May 2, 1945, as amended by this order, shall be vested in a Chief of Counsel for War Crimes to be appointed by the United States Military Governor for Germany or by his successor.

4. The said Executive Order No. 9547 of May 2, 1945, is amended accordingly.

HARRY S. TRUMAN

THE WHITE HOUSE,
January 16, 1946.

(F. R. Doc. 46–893 ; Filed, Jan. 17, 1946 ; 11 : 08 a. m.)

HEADQUARTERS

US FORCES, EUROPEAN THEATER

GENERAL ORDERS
No. 301

24 OCTOBER 1946

Office of Chief of Counsel for War Crimes I
Chief Prosecutor II
Announcement of Assignments III

I—OFFICE OF CHIEF OF COUNSEL FOR WAR CRIMES. Effective this date, the Office of Chief of Counsel for War Crimes is transferred to the Office of Military Government for Germany (US). The Chief of Counsel for War Crimes will report directly to the Deputy Military Governor and will work in

close liaison with the Legal Adviser of the Office of Military Government for Germany and with the Theater Judge Advocate.

II____CHIEF PROSECUTOR. Effective this date, the Chief of Counsel for War Crimes will also serve as Chief Prosecutor under the Charter of the International Military Tribunal, established by the Agreement of 8 August 1945.

III____ANNOUNCEMENT OF ASSIGNMENTS. Effective this date, Brigadier General Telford Taylor, USA, is announced as Chief of Counsel for War Crimes, in which capacity he will also serve as Chief Prosecutor for the United States under the Charter of the International Military Tribunal, established by the Agreement of 8 August 1945.

BY COMMAND OF GENERAL MCNARNEY:

C. R. HUEBNER
Major General, GSC,
Chief of Staff

OFFICIAL:
GEORGE F. HERBERT
Colonel, AGD
Adjutant General

DISTRIBUTION: D

MILITARY GOVERNMENT—GERMANY

UNITED STATES ZONE

ORDINANCE NO. 7

ORGANIZATION AND POWERS OF CERTAIN MILITARY TRIBUNALS

Article I

The purpose of this Ordinance is to provide for the establishment of military tribunals which shall have power to try and punish persons charged with offenses recognized as crimes in Article II of Control Council Law No. 10, including conspiracies to commit any such crimes. Nothing herein shall prejudice the jurisdiction or the powers of other courts established or which may be established for the trial of any such offenses.

Article II

(*a*) Pursuant to the powers of the Military Governor for the United States Zone of Occupation within Germany and further pursuant to the powers conferred upon the Zone Commander by Control Council Law No. 10 and Articles 10 and 11 of the Charter of the International Military Tribunal annexed to the London Agreement of 8 August 1945 certain tribunals to be known as "Military Tribunals" shall be established hereunder.

(*b*) Each such tribunal shall consist of three or more members to be designated by the Military Governor. One alternate member may be designated to any tribunal if deemed advisable by the Military Governor. Except as provided in subsection (*c*) of this Article, all members and alternates shall be

lawyers who have been admitted to practice, for at least five years, in the highest courts of one of the United States or its territories or of the District of Columbia, or who have been admitted to practice in the United States Supreme Court.

(*c*) The Military Governor may in his discretion enter into an agreement with one or more other zone commanders of the member nations of the Allied Control Authority providing for the joint trial of any case or cases. In such cases the tribunals shall consist of three or more members as may be provided in the agreement. In such cases the tribunals may include properly qualified lawyers designated by the other member nations.

(*d*) The Military Governor shall designate one of the members of the tribunal to serve as the presiding judge.

(*e*) Neither the tribunals nor the members of the tribunals or the alternates may be challenged by the prosecution or by the defendants or their counsel.

(*f*) In case of illness of any member of a tribunal or his incapacity for some other reason, the alternate, if one has been designated, shall take his place as a member in the pending trial. Members may be replaced for reasons of health or for other good reasons, except that no replacement of a member may take place, during a trial, other than by the alternate. If no alternate has been designated, the trial shall be continued to conclusion by the remaining members.

(*g*) The presence of three members of the tribunal or of two members when authorized pursuant to subsection (*f*) *supra* shall be necessary to constitute a quorum. In the case of tribunals designated under (*c*) above the agreement shall determine the requirements for a quorum.

(*h*) Decisions and judgments, including convictions and sentences, shall be by majority vote of the members. If the votes of the members are equally divided, the presiding member shall declare a mistrial.

Article III

(*a*) Charges against persons to be tried in the tribunals established hereunder shall originate in the Office of the Chief of Counsel for War Crimes, appointed by the Military Governor pursuant to paragraph 3 of the Executive Order Numbered 9679 of the President of the United States dated 16 January 1946. The Chief of Counsel for War Crimes shall determine the persons to be tried by the tribunals and he or his designated representative shall file the indictments with the Secretary General of the tribunals (see Article XIV, *infra*) and shall conduct the prosecution.

(*b*) The Chief of Counsel for War Crimes, when in his judgment it is advisable, may invite one or more United Nations to designate representatives to participate in the prosecution of any case.

Article IV

In order to ensure fair trial for the defendants, the following procedure shall be followed:

(*a*) A defendant shall be furnished, at a reasonable time before his trial, a copy of the indictment and of all documents lodged with the indictment, translated into a language which he understands. The indictment shall state the charges plainly, concisely and with sufficient particulars to inform defendant of the offenses charged.

(*b*) The trial shall be conducted in, or translated into, a language which the defendant understands.

(*c*) A defendant shall have the right to be represented by counsel of his own selection, provided such counsel shall be a person qualified under existing regulations to conduct cases before the courts of defendant's country, or any other per-

son who may be specially authorized by the tribunal. The tribunal shall appoint qualified counsel to represent a defendant who is not represented by counsel of his own selection.

(*d*) Every defendant shall be entitled to be present at his trial except that a defendant may be proceeded against during temporary absences if in the opinion of the tribunal defendant's interests will not thereby be impaired, and except further as provided in Article VI (*c*). The tribunal may also proceed in the absence of any defendant who has applied for and has been granted permission to be absent.

(*e*) A defendant shall have the right through his counsel to present evidence at the trial in support of his defense, and to crossexamine any witness called by the prosecution.

(*f*) A defendant may apply in writing to the tribunal for the production of witnesses or of documents. The application shall state where the witness or document is thought to be located and shall also state the facts to be proved by the witness or the document and the relevancy of such facts to the defense. If the tribunal grants the application, the defendant shall be given such aid in obtaining production of evidence as the tribunal may order.

Article V

The tribunals shall have the power

(*a*) to summon witnesses to the trial, to require their attendance and testimony and to put questions to them;

(*b*) to interrogate any defendant who takes the stand to testify in his own behalf, or who is called to testify regarding another defendant;

(*c*) to require the production of documents and other evidentiary material;

(*d*) to administer oaths;

(*e*) to appoint officers for the carrying out of any task designated by the tribunals including the taking of evidence on commission;

(*f*) to adopt rules of procedure not inconsistent with this Ordinance. Such rules shall be adopted, and from time to time as necessary, revised by the members of the tribunal or by the committee of presiding judges as provided in Article XIII.

Article VI

The tribunals shall

(*a*) confine the trial strictly to an expeditious hearing of the issues raised by the charges;

(*b*) take strict measures to prevent any action which will cause unreasonable delay, and rule out irrelevant issues and statements of any kind whatsoever;

(*c*) deal summarily with any contumacy, imposing appropriate punishment, including the exclusion of any defendant or his counsel from some or all further proceedings, but without prejudice to the determination of the charges.

Article VII

The tribunals shall not be bound by technical rules of evidence. They shall adopt and apply to the greatest possible extent expeditious and nontechnical procedure, and shall admit any evidence which they deem to have probative value. Without limiting the foregoing general rules, the following shall be deemed admissible if they appear to the tribunal to contain information of probative value relating to the charges: affidavits, depositions, interrogations, and other statements, diaries, letters, the records, findings, statements and judgments of the military tribunals and the reviewing and confirming authorities of any of the United Nations, and copies of any document or other secondary evidence of the contents of any document, if the original is not readily available or cannot be

produced without delay. The tribunal shall afford the opposing party such opportunity to question the authenticity or probative value of such evidence as in the opinion of the tribunal the ends of justice require.

Article VIII

The tribunals may require that they be informed of the nature of any evidence before it is offered so that they may rule upon the relevance thereof.

Article IX

The tribunals shall not require proof of facts of common knowledge but shall take judicial notice thereof. They shall also take judicial notice of official governmental documents and reports of any of the United Nations, including the acts and documents of the committees set up in the various Allied countries for the investigation of war crimes, and the records and findings of military or other tribunals of any of the United Nations.

Article X

The determinations of the International Military Tribunal in the judgments in Case No. 1 that invasions, aggressive acts, aggressive wars, crimes, atrocities or inhumane acts were planned or occurred, shall be binding on the tribunals established hereunder and shall not be questioned except insofar as the participation therein or knowledge thereof by any particular person may be concerned. Statements of the International Military Tribunal in the judgment in Case No. 1 constitute proof of the facts stated, in the absence of substantial new evidence to the contrary.

Article XI

The proceedings at the trial shall take the following course:

(*a*) The tribunal shall inquire of each defendant whether he has received and had an opportunity to read the indictment against him and whether he pleads "guilty" or "not guilty."

(*b*) The prosecution may make an opening statement.

(*c*) The prosecution shall produce its evidence subject to the cross examination of its witnesses.

(*d*) The defense may make an opening statement.

(*e*) The defense shall produce its evidence subject to the cross examination of its witnesses.

(*f*) Such rebutting evidence as may be held by the tribunal to be material may be produced by either the prosecution or the defense.

(*g*) The defense shall address the court.

(*h*) The prosecution shall address the court.

(*i*) Each defendant may make a statement to the tribunal.

(*j*) The tribunal shall deliver judgment and pronounce sentence.

Article XII

A Central Secretariat to assist the tribunals to be appointed hereunder shall be established as soon as practicable. The main office of the Secretariat shall be located in Nurnberg. The Secretariat shall consist of a Secretary General and such assistant secretaries, military officers, clerks, interpreters and other personnel as may be necessary.

Article XIII

The Secretary General shall be appointed by the Military Governor and shall organize and direct the work of the Secretariat. He shall be subject to the supervision of the members of the tribunals, except that when at least three tribunals

shall be functioning, the presiding judges of the several tribunals may form the supervisory committee.

Article XIV

The Secretariat shall:

(*a*) Be responsible for the administrative and supply needs of the Secretariat and of the several tribunals.

(*b*) Receive all documents addressed to tribunals.

(*c*) Prepare and recommend uniform rules of procedure, not inconsistent with the provisions of this Ordinance.

(*d*) Secure such information for the tribunals as may be needed for the approval or appointment of defense counsel.

(*e*) Serve as liaison between the prosecution and defense counsel.

(*f*) Arrange for aid to be given defendants and the prosecution in obtaining production of witnesses or evidence as authorized by the tribunals.

(*g*) Be responsible for the preparation of the records of the proceedings before the tribunals.

(*h*) Provide the necessary clerical, reporting and interpretative services to the tribunals and its members, and perform such other duties as may be required for the efficient conduct of the proceedings before the tribunals, or as may be requested by any of the tribunals.

Article XV

The judgments of the tribunals as to the guilt or the innocence of any defendant shall give the reasons on which they are based and shall be final and not subject to review. The sentences imposed may be subject to review as provided in Article XVII, *infra*.

Article XVI

The tribunal shall have the right to impose upon the defendant, upon conviction, such punishment as shall be determined by the tribunal to be just, which may consist of one or more of the penalties provided in Article II, Section 3 of Control Council Law No. 10.

Article XVII

(*a*) Except as provided in (*b*) *infra*, the record of each case shall be forwarded to the Military Governor who shall have the power to mitigate, reduce or otherwise alter the sentence imposed by the tribunal, but may not increase the severity thereof.

(*b*) In cases tried before tribunals authorized by Article II (*c*), the sentence shall be reviewed jointly by the zone commanders of the nations involved, who mitigate, reduce or otherwise alter the sentence by majority vote, but may not increase the severity thereof. If only two nations are represented, the sentence may be altered only by the consent of both zone commanders.

Article XVIII

No sentence of death shall be carried into execution unless and until confirmed in writing by the Military Governor. In accordance with Article III, Section 5 of Law No. 10, execution of the death sentence may be deferred by not to exceed one month after such confirmation if there is reason to believe that the testimony of the convicted person may be of value in the investigation and trial of other crimes.

Article XIX

Upon the pronouncement of a death sentence by a tribunal established thereunder and pending confirmation thereof, the condemned will be remanded to

the prison or place where he was confined and there be segregated from the other inmates, or be transferred to a more appropriate place of confinement.

Article XX

Upon the confirmation of a sentence of death the Military Governor will issue the necessary orders for carrying out the execution.

Article XXI

Where sentence of confinement for a term of years has been imposed the condemned shall be confined in the manner directed by the tribunal imposing sentence. The place of confinement may be changed from time to time by the Military Governor.

Article XXII

Any property declared to be forfeited or the restitution of which is ordered by a tribunal shall be delivered to the Military Governor, for disposal in accordance with Control Council Law No. 10, Article II (3).

Article XXIII

Any of the duties and functions of the Military Governor provided for herein may be delegated to the Deputy Military Governor. Any of the duties and functions of the Zone Commander provided for herein may be exercised by and in the name of the Military Governor and may be delegated to the Deputy Military Governor.

This Ordinance becomes effective 18 October 1946.

By order of Military Government.

MILITARY GOVERNMENT—GERMANY
ORDINANCE NO. 11

AMENDING MILITARY GOVERNMENT ORDINANCE NO. 7 OF 18 OCTOBER 1946, ENTITLED "ORGANIZATION AND POWERS OF CERTAIN MILITARY TRIBUNALS"

Article I

Article V of Ordinance No. 7 is amended by adding thereto a new subdivision to be designated "(*g*)", reading as follows:

"(*g*) The presiding judges, and, when established, the supervisory committee of presiding judges provided in Article XIII shall assign the cases brought by the Chief of Counsel for War Crimes to the various Military Tribunals for trial."

Article II

Ordinance No. 7 is amended by adding thereto a new article following Article V to be designated Article V–B, reading as follows:

"(*a*) A joint session of the Military Tribunals may be called by any of the presiding judges thereof or upon motion, addressed to each of the Tribunals, of the Chief of Counsel for War Crimes or of counsel for any defendant whose interests are affected, to hear argument upon and to review any interlocutory ruling by any of the Military Tribunals on a fundamental or important legal question either substantive or procedural, which ruling is in conflict with or is inconsistent with a prior ruling of another of the Military Tribunals.

"(*b*) A joint session of the Military Tribunals may be called in the same manner as provided in subsection (*a*) of this Article to hear argument upon and

to review conflicting or inconsistent final rulings contained in the decisions or judgments of any of the Military Tribunals on a fundamental or important legal question, either substantive or procedural. Any motion with respect to such final ruling shall be filed within ten (10) days following the issuance of decision or judgment.

"(*c*) Decisions by joint sessions of the Military Tribunals, unless thereafter altered in another joint session, shall be binding upon all the Military Tribunals. In the case of the review of final rulings by joint sessions, the judgments reviewed may be confirmed or remanded for action consistent with the joint decision.

"(*d*) The presence of a majority of the members of each Military Tribunal then constituted is required to constitute a quorum.

"(*e*) The members of the Military Tribunals shall, before any joint session begins, agree among themselves upon the selection from their number of a member to preside over the joint session.

"(*f*) Decisions shall be by majority vote of the members. If the votes of the members are equally divided, the vote of the member presiding over the session shall be decisive."

Article III

Subdivisions (*g*) and (*h*) of Article XI of Ordinance No. 7 are deleted; subdivision (*i*) is relettered "(*h*)"; subdivision (*j*) is relettered "(*i*)"; and a new subdivision, to be designated "(*g*)", is added, reading as follows:

"(*g*) The prosecution and defense shall address the court in such order as the Tribunal may determine."

This Ordinance becomes effective 17 February 1947.

BY ORDER OF THE MILITARY GOVERNMENT:

OFFICIALS OF THE OFFICE OF THE SECRETARY GENERAL

Secretaries General

Mr. Charles E. Sands	From 25 October 1946 to 17 November 1946.
Mr. George M. Read	From 18 November 1946 to 19 January 1947.
Mr. Charles E. Sands	From 20 January 1947 to 18 April 1947.
Colonel John E. Ray	From 19 April 1947 to 9 May 1948.
Dr. Howard H. Russell	From 10 May 1948 to 1 December 1949.

Deputy and Executive Secretaries General

Mr. Charles E. Sands	Deputy from 18 November 1946 to 19 January 1947.
Judge Richard D. Dixon	Acting Deputy from 25 November 1946 to 5 March 1947.
Mr. Henry A. Hendry	Deputy from 6 March 1947 to 9 May 1947.
Mr. Homer B. Millard	Executive Secretary General from 3 March 1947 to 5 October 1947.
Lieutenant Colonel Herbert N. Holsten	Executive Secretary General from 6 October 1947 to 30 April 1949.

Assistant Secretaries General

[Since many trials were being held simultaneously, an Assistant Secretary General was designated by the Secretary General for each case. Assistant Secretaries General are listed with the members of each tribunal.]

Marshals of Military Tribunals

Colonel Charles W. Mays	From 4 November 1946 to 5 September 1947.
Colonel Samuel L. Metcalfe	From 7 September 1947 to 29 August 1948.
Captain Kenyon S. Jenckes	From 30 August 1948 to 30 April 1949.

Court Archives

Mrs. Barbara S. Mandellaub	Chief from 21 February 1947 to 30 April 1949.

Defense Information Center

Mr. Lambertus Wartena	Defense Administrator from 3 March 1947 to 16 September 1947.
Lieutenant Colonel Herbert N. Holsten	Defense Administrator from 17 September 1947 to 19 October 1947.
Major Robert G. Schaefer	Defense Administrator from 20 October 1947 to 30 April 1949.

"The Medical Case"

MILITARY TRIBUNAL NO. I

CASE 1

THE UNITED STATES OF AMERICA

— against —

KARL BRANDT, SIEGFRIED HANDLOSER, PAUL ROSTOCK, OSKAR SCHROEDER, KARL GENZKEN, KARL GEBHARDT, KURT BLOME, RUDOLF BRANDT, JOACHIM MRUGOWSKY, HELMUT POPPENDICK, WOLFRAM SIEVERS, GERHARD ROSE, SIEGFRIED RUFF, HANS WOLFGANG ROMBERG, VIKTOR BRACK, HERMANN BECKER-FREYSENG, GEORG AUGUST WELTZ, KONRAD SCHAEFER, WALDEMAR HOVEN, WILHELM BEIGLBOECK, ADOLF POKORNY, HERTA OBERHEUSER, and FRITZ FISCHER, *Defendants*

INTRODUCTION

The "Doctors Trial" or "Medical Case"—officially designated *United States of America* vs. *Karl Brandt, et al.* (Case No. 1)—was tried at the Palace of Justice in Nuernberg before Military Tribunal I. The Tribunal convened 139 times, and the duration of the trial is shown by the following schedule:

Indictment filed	25 October 1946
Indictment served	5 November 1946
Arraignment	21 November 1946
Prosecution opening statement	9 December 1946
Defense opening statement	29 January 1947
Prosecution closing statement	14 July 1947
Defense closing statements	14–18 July 1947
Judgment	19 August 1947
Sentences	20 August 1947
Affirmation of sentences by Military Commander of the United States Zone of Occupation	25 November 1947
Order of the United States Supreme Court denying writ of habeas corpus	16 February 1948

The death sentences imposed on Karl Brandt, Rudolf Brandt, Karl Gebhardt, Joachim Mrugowsky, Viktor Brack, Wolfram Sievers, and Waldemar Hoven were put into execution on 2 June 1948.

The English transcript of the Court proceedings runs to 11,538 mimeographed pages. The prosecution introduced into evidence 570 written exhibits (some of which contained several documents), and the defense 901 written exhibits. The Tribunal heard oral testimony of 32 witnesses called by the prosecution and of 30 witnesses, excluding the defendants, called by the defense. Each of the 23 defendants testified in his own behalf, and each was subject to examination on behalf of other defendants. The exhibits offered by both the prosecution and defense contained documents, photographs, affidavits, interrogatories, letters, maps, charts, and other written evidence. The prosecution introduced 49 affidavits; the defense introduced 535 affidavits. The prosecution called 3 defense affiants for cross-examination; the defense called 13 prosecution affiants for cross-examination. The case-in-chief of the prosecution took 25 court days and the case

for the 23 defendants took 107 court days. The Tribunal was in recess between 18 and 27 January 1947 to give the defense additional time to prepare its case. A further recess was taken from 3 to 14 July 1947 to allow both prosecution and defense time for the preparation of their closing arguments.

The members of the Tribunal and prosecution and defense counsel are listed on the ensuing pages. Prosecution counsel were assisted in preparing the case by Walter Rapp (Chief of the Evidence Division), Fred Rodell, Norbert Barr, and Herbert Meyer, interrogators, and Henry Sachs, Eleanor Anspacher, Nancy Fenstermacher, and Olga Lang, research and documentary analysts.

Selection and arrangement of the "Medical Case" material published herein was accomplished principally by Arnost Horlik-Hochwald, working under the general supervision of Drexel A. Sprecher, Deputy Chief Counsel and Director of Publications, Office U. S. Chief of Counsel for War Crimes. Catherine W. Bedford, Henry Buxbaum, Emilie Evand, Gertrude Ferencz, Paul H. Gantt, Constance Gavares, Olga Lang, Helga Lund, Gwendoline Niebergall, Johanna K. Reischer, Hans Sachs, and Enid M. Standring assisted in selecting, compiling, editing, and indexing the numerous papers.

John H. E. Fried, Special Legal Consultant to the Tribunals, reviewed and approved the selection and arrangement of the material as the designated representative of the Nuernberg Tribunals.

Final compilation and editing of the manuscript for printing was administered by the War Crimes Division, Office of the Judge Advocate General, under the direct supervision of Richard A. Olbeter, Chief, Special Projects Branch, with Alma Soller as editor and John W. Mosenthal as research analyst.

ORDER CONSTITUTING TRIBUNAL I

OFFICE OF MILITARY GOVERNMENT FOR GERMANY (U. S.)
APO 742

GENERAL ORDERS
No. 68

26 October 1946

Pursuant to Military Government Ordinance No. 7

1. Pursuant to Military Government Ordinance No. 7, 24 October 1946, entitled "Organization and Powers of Certain Military Tribunals", there is hereby constituted, Military Tribunal I.

2. The following are designated as members of Military Tribunal I:

WALTER B. BEALS	Presiding Judge
HAROLD L. SEBRING	Judge
JOHNSON TAL CRAWFORD	Judge
VICTOR C. SWEARINGEN	Alternate Judge

3. The Tribunal shall convene at Nuernberg, Germany, to hear such cases as may be filed by the Chief of Counsel for War Crimes or by his duly designated representative.

4. This order is effective as of 25 October 1946.

BY COMMAND OF LIEUTENANT GENERAL CLAY:

C. K. GAILEY
Brigadier General, USA
Chief of Staff

OFFICIAL:

G. H. GARDE
Lieutenant Colonel, AGD
Adjutant General

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MEMBERS OF THE TRIBUNAL

JUDGE WALTER B. BEALS, Presiding Judge.
Chief Justice of the Supreme Court of the State of Washington.
JUDGE HAROLD L. SEBRING, Member.
Associate Justice of the Supreme Court of Florida.
JUDGE JOHNSON T. CRAWFORD, Member.
Formerly Judge of a District Court of the State of Oklahoma.
JUDGE VICTOR C. SWEARINGEN, Alternate Member.
Formerly Special Assistant to the Attorney General of the United States.

ASSISTANT SECRETARIES GENERAL

MR. DEHULL N. TRAVIS---------- From 21 November 1946 to 6 June 1947
MAJOR MILLS C. HATFIELD---------- From 17 June 1947 to 14 July 1947
MISS M. A. ROYCE---------- From 15 July 1947 to 20 August 1947

TRIBUNAL I—CASE ONE

Harold L. Sebring; Walter B. Beals, Presiding; Johnson Tal Crawford; Victor C. Swearingen, Alternate.

General view of courtroom on opening day of trial. Upper left: Court reporter and translators. Left: Defendants and defense counsel. At rostrum: Brigadier General Telford Taylor, Chief of Counsel for War Crimes Right: Judges and court clerks of Tribunal I. Foreground: Members of the prosecution staff with Mr. James McHaney, Chief Prosecutor, and Mr. Alexander Hardy, Associate Prosecutor, seated at table directly behind Brigadier General Taylor.

View of the defendants and defense council, 9 December 1946. The defendants are, left to right: (front row) Karl Brandt, Siegfried Handloser, Paul Rostock, Oskar Schroeder, Karl Genzken, Karl Gebhardt, Kurt Blome, Joachim Mrugowsky, Rudolf Branat, Helmut Poppendick, Wolfram Sievers; (back row) Gerhard Rose, Siegfried Ruff, Viktor Brack, Hans Wolfgang Romberg, Hermann Becker-Freyseng, Georg August Weltz, Konrad Schaeffer, Waldemar Hoven, Wilhelm Beiglboeck, Adolf Pokorny, Herta Oberheuser, Fritz Fischer.

The defendant Gerhard Rose at work in his cell on his defense material.

PROSECUTION COUNSEL

Chief of Counsel:
Brigadier General Telford Taylor
Chief Prosecutor:
Mr. James M. McHaney
Associate Counsel:
Mr. Alexander G. Hardy
Mr. Arnost Horlik-Hochwald
Assistant Counsel:
Mr. Glen J. Brown
Miss Esther J. Johnson
Mr. Jack W. Robbins
Mr. Daniel J. Shiller

DEFENSE COUNSEL

Defendants	*Defense Counsel*	*Associate Defense Counsel*
Brandt, Karl	Dr. Robert Servatius	Dr. Rudolf Schmidt
Handloser, Siegfried	Dr. Otto Nelte	
Rostock, Paul	Dr. Hans Pribilla	
Schroeder, Oskar	Dr. Hanns Marx	Dr. Walter Dehner
Genzken, Karl	Dr. Rudolf Merkel	Dr. Alfred Brenner
Gebhardt, Karl	Dr. Alfred Seidl	Dr. Georg Gierl
Blome, Kurt	Dr. Fritz Sauter	
Brandt, Rudolf	Dr. Kurt Kauffmann	
Mrugowsky, Joachim	Dr. Fritz Flemming	
Poppendick, Helmut	Dr. Georg Boehm	Dr. Helmut Duerr
Sievers, Wolfram	Dr. Josef Weisgerber	Dr. Erich Bergler
Rose, Gerhard	Dr. Hans Fritz	
Ruff, Siegfried	Dr. Fritz Sauter	
Romberg, Hans Wolfgang	Dr. Bernd Vorwerk	
Brack, Viktor	Dr. Georg Froeschmann	
Becker-Freyseng, Hermann	Dr. Hanns Marx	Dr. Walter Dehner
Weltz, Georg August	Dr. Siegfried Wille	
Schaefer, Konrad	Dr. Horst Pelckmann	
Hoven, Waldemar	Dr. Hans Gawlik	Dr. Gerhard Klinnert
Beiglboeck, Wilhelm	Dr. Gustav Steinbauer	
Pokorny, Adolf	Dr. Karl Hoffmann	Dr. Hans-Gunther Seraphim
Oberheuser, Herta	Dr. Alfred Seidl	Dr. Georg Gierl
Fischer, Fritz	Dr. Alfred Seidl	Dr. Georg Gierl

I. INDICTMENT

The United States of America, by the undersigned Telford Taylor, Chief of Counsel for War Crimes, duly appointed to represent said Government in the prosecution of war criminals, charges that the defendants herein participated in a common design or conspiracy to commit and did commit war crimes and crimes against humanity, as defined in Control Council Law No. 10, duly enacted by the Allied Control Council on 20 December 1945. These crimes included murders, brutalities, cruelties, tortures, atrocities, and other inhumane acts, as set forth in counts one, two, and three of this indictment. Certain defendants are further charged with membership in a criminal organization, as set forth in count four of this indictment.

The persons accused as guilty of these crimes and accordingly named as defendants in this case are—

KARL BRANDT—Personal physician to Adolf Hitler; Gruppenfuehrer in the SS and Generalleutnant (Major General) in the Waffen SS; Reich Commissioner for Health and Sanitation (Reichskommissar fuer Sanitaets- und Gesundheitswesen); and member of the Reich Research Council (Reichsforschungsrat).

SIEGFRIED HANDLOSER—Generaloberstabsarzt (Lieutenant General, Medical Service); Medical Inspector of the Army (Heeressanitaetsinspekteur); and Chief of the Medical Services of the Armed Forces (Chef des Wehrmachtsanitaetswesens).

PAUL ROSTOCK—Chief Surgeon of the Surgical Clinic in Berlin; Surgical Adviser to the Army; and Chief of the Office for Medical Science and Research (Amtschef der Dienststelle Medizinische Wissenschaft und Forschung) under the defendant Karl Brandt, Reich Commissioner for Health and Sanitation.

OSKAR SCHROEDER—Generaloberstabsarzt (Lieutenant General Medical Service); Chief of Staff of the Inspectorate of the Medical Service of the Luftwaffe (Chef des Stabes, Inspekteur des Luftwaffe-Sanitaetswesens); and Chief of the Medical Service of the Luftwaffe (Chef des Sanitaetswesens der Luftwaffe).

KARL GENZKEN—Gruppenfuehrer in the SS and Generalleutnant (Major General) in the Waffen SS; and Chief of the Medical Department of the Waffen SS (Chef des Sanitaetsamts der Waffen SS).

KARL GEBHARDT—Gruppenfuehrer in the SS and Generalleutnant (Major General) in the Waffen SS; personal physician to Reichsfuehrer SS Himmler; Chief Surgeon of the Staff of the Reich Physician SS and Police (Oberster Kliniker, Reichsarzt SS und Polizei); and President of the German Red Cross.

KURT BLOME—Deputy [of the] Reich Health Leader (Reichsgesundheitsfuehrer); and Plenipotentiary for Cancer Research in the Reich Research Council.

RUDOLF BRANDT—Standartenfuehrer (Colonel); in the Allgemeine SS; Personal Administrative Officer to Reichsfuehrer SS Himmler (Persoenlicher Referent von Himmler); and Ministerial Counsellor and Chief of the Ministerial Office in the Reich Ministry of the Interior.

JOACHIM MRUGOWSKY—Oberfuehrer (Senior Colonel) in the Waffen SS; Chief Hygienist of the Reich Physician SS and Police (Oberster Hygieniker, Reichsarzt SS und Polizei); and Chief of the Hygenic Institute of the Waffen SS (Chef des Hygienischen Institutes der Waffen SS).

HELMUT POPPENDICK—Oberfuehrer (Senior Colonel) in the SS; and Chief of the Personal Staff of the Reich Physician SS and Police (Chef des Persoenlichen Stabes des Reichsarztes SS und Polizei).

WOLFRAM SIEVERS—Standartenfuehrer (Colonel) in the SS; Reich Manager of the "Ahnenerbe" Society and Director of its Institute for Military Scientific Research (Institut fuer Wehrwissenschaftliche Zweckforschung); and Deputy Chairman of the Managing Board of Directors of the Reich Research Council.

GERHARD ROSE—Generalarzt of the Luftwaffe (Brigadier General, Medical Service of the Air Force); Vice President, Chief of the Department for Tropical Medicine, and Professor of the Robert Koch Institute; and Hygienic Adviser for Tropical Medicine to the Chief of the Medical Service of the Luftwaffe.

SIEGFRIED RUFF—Director of the Department for Aviation Medicine at the German Experimental Institute for Aviation (Deutsche Versuchsanstalt fuer Luftfahrt).

HANS WOLFGANG ROMBERG—Doctor on the Staff of the Department for Aviation Medicine at the German Experimental Institute for Aviation.

VIKTOR BRACK—Oberfuehrer (Senior Colonel) in the SS and Sturmbannfuehrer (Major) in the Waffen SS; and Chief Administrative Officer in the Chancellery of the Fuehrer of the NSDAP (Oberdienstleiter, Kanzlei des Fuehrers der NSDAP).

HERMANN BECKER-FREYSENG—Stabsarzt in the Luftwaffe (Captain, Medical Service of the Air Force); and Chief of the Department for Aviation Medicine of the Chief of the Medical Service of the Luftwaffe.

GEORG AUGUST WELTZ—Oberfeldarzt in the Luftwaffe (Lieutenant Colonel, Medical Service of the Air Force); and Chief of the Institute for Aviation Medicine in Munich (Institut fuer Luftfahrtmedizin).

KONRAD SCHAEFER—Doctor on the Staff of the Institute for Aviation Medicine in Berlin.

WALDEMAR HOVEN—Hauptsturmfuehrer (Captain) in the Waffen SS; and Chief Doctor of the Buchenwald Concentration Camp.

WILHELM BEIGLBOECK—Consulting Physician to the Luftwaffe.

ADOLF POKORNY—Physician, Specialist in Skin and Venereal Diseases.

HERTA OBERHEUSER—Physician at the Ravensbrueck Concentration Camp; and Assistant Physician to the defendant Gebhardt at the Hospital at Hohenlychen.

FRITZ FISCHER—Sturmbannfuehrer (Major) in the Waffen SS; and Assistant Physician to the defendant Gebhardt at the Hospital at Hohenlychen.

COUNT ONE—THE COMMON DESIGN OR CONSPIRACY

1. Between September 1939 and April 1945 all of the defendants herein, acting pursuant to a common design, unlawfully, willfully, and knowingly did conspire and agree together and with each other and with divers other persons, to commit war crimes and crimes against humanity, as defined in Control Council Law No. 10, Article II.

2. Throughout the period covered by this indictment all of the defendants herein, acting in concert with each other and with others, unlawfully, willfully, and knowingly were principals in, accessories to, ordered, abetted, took a consenting part in, and were connected with plans and enterprises involving the commission of war crimes and crimes against humanity.

3. All of the defendants herein, acting in concert with others for whose acts the defendants are responsible, unlawfully, willfully, and knowingly participated as leaders, organizers, investigators, and accomplices in the formulation and execution of the said common design, conspiracy, plans, and enterprises to commit, and which involved the commission of, war crimes and crimes against humanity.

4. It was a part of the said common design, conspiracy, plans, and enterprises to perform medical experiments upon concentration camp inmates and other living human subjects, without their consent, in the course of which experiments the defendants committed the murders, brutalities, cruelties, tortures, atrocities, and other inhuman acts, more fully described in counts two and three of this indictment.

5. The said common design, conspiracy, plans, and enterprises embraced the commission of war crimes and crimes against humanity, as set forth in counts two and three of this indictment, in that the defendants unlawfully, willfully, and knowingly encouraged, aided, abetted, and participated in the subjection of thousands of persons,

including civilians, and members of the armed forces of nations then at war with the German Reich, to murders, brutalities, cruelties, tortures, atrocities, and other inhuman acts.

COUNT TWO—WAR CRIMES

6. Between September 1939 and April 1945 all of the defendants herein unlawfully, willfully, and knowingly committed war crimes, as defined by Article II of Control Council Law No. 10, in that they were principals in, accessories to, ordered, abetted, took a consenting part in, and were connected with plans and enterprises involving medical experiments without the subjects' consent, upon civilians and members of the armed forces of nations then at war with the German Reich and who were in the custody of the German Reich in exercise of belligerent control, in the course of which experiments the defendants committed murders, brutalities, cruelties, tortures, atrocities, and other inhuman acts. Such experiments included, but were not limited to, the following:

(*A*) *High-Altitude Experiments.* From about March 1942 to about August 1942 experiments were conducted at the Dachau concentration camp, for the benefit of the German Air Force, to investigate the limits of human endurance and existence at extremely high altitudes. The experiments were carried out in a low-pressure chamber in which the atmospheric conditions and pressures prevailing at high altitude (up to 68,000 feet) could be duplicated. The experimental subjects were placed in the low-pressure chamber and thereafter the simulated altitude therein was raised. Many victims died as a result of these experiments and others suffered grave injury, torture, and ill-treatment. The defendants Karl Brandt, Handloser, Schroeder, Gebhardt, Rudolf Brandt, Mrugowsky, Poppendick, Sievers, Ruff, Romberg, Becker-Freyseng, and Weltz are charged with special responsibility for and participation in these crimes.

(*B*) *Freezing Experiments.* From about August 1942 to about May 1943 experiments were conducted at the Dachau concentration camp, primarily for the benefit of the German Air Force, to investigate the most effective means of treating persons who had been severely chilled or frozen. In one series of experiments the subjects were forced to remain in a tank of ice water for periods up to 3 hours. Extreme rigor developed in a short time. Numerous victims died in the course of these experiments. After the survivors were severely chilled, rewarming was attempted by various means. In another series of experiments, the subjects were kept naked outdoors for many hours at temperatures below freezing. The victims screamed with pain as parts of their bodies froze. The defendants Karl Brand, Handloser, Schroeder, Gebhardt, Rudolf Brandt, Mrugowsky,

Poppendick, Sievers, Becker-Freyseng, and Weltz are charged with special responsibility for and participation in these crimes.

(*C*) *Malaria Experiments.* From about February 1942 to about April 1945 experiments were conducted at the Dachau concentration camp in order to investigate immunization for and treatment of malaria. Healthy concentration-camp inmates were infected by mosquitoes or by injections of extracts of the mucous glands of mosquitoes. After having contracted malaria the subjects were treated with various drugs to test their relative efficacy. Over 1,000 involuntary subjects were used in these experiments. Many of the victims died and others suffered severe pain and permanent disability. The defendants Karl Brandt, Handloser, Rostock, Gebhardt, Blome, Rudolf Brandt, Mrugowsky, Poppendick, and Sievers are charged with special responsibility for and participation in these crimes.

(*D*) *Lost* (*Mustard*) *Gas Experiments.* At various times between September 1939 and April 1945 experiments were conducted at Sachsenhausen, Natzweiler, and other concentration camps for the benefit of the German Armed Forces to investigate the most effective treatment of wounds caused by Lost gas. Lost is a poison gas which is commonly known as mustard gas. Wounds deliberately inflicted on the subjects were infected with Lost. Some of the subjects died as a result of these experiments and others suffered intense pain and injury. The defendants Karl Brandt, Handloser, Blome, Rostock, Gebhardt, Rudolf Brandt, and Sievers are charged with special responsibility for and participation in these crimes.

(*E*) *Sulfanilamide Experiments.* From about July 1942 to about September 1943 experiments to investigate the effectiveness of sulfanilamide were conducted at the Ravensbrueck concentration camp for the benefit of the German Armed Forces. Wounds deliberately inflicted on the experimental subjects were infected with bacteria such as streptococcus, gas gangrene, and tetanus. Circulation of blood was interrupted by tying off blood vessels at both ends of the wound to create a condition similar to that of a battlefield wound. Infection was aggravated by forcing wood shavings and ground glass into the wounds. The infection was treated with sulfanilamide and other drugs to determine their effectiveness. Some subjects died as a result of these experiments and others suffered serious injury and intense agony. The defendants Karl Brandt, Handloser, Rostock, Schroeder, Genzken, Gebhardt, Blome, Rudolf Brandt, Mrugowsky, Poppendick, Becker-Freyseng, Oberheuser, and Fischer are charged with special responsibility for and participation in these crimes.

(*F*) *Bone, Muscle, and Nerve Regeneration and Bone Transplantation Experiments.* From about September 1942 to about December 1943 experiments were conducted at the Ravensbrueck concentration camp, for the benefit of the German Armed Forces, to study bone,

muscle, and nerve regeneration, and bone transplantation from one person to another. Sections of bones, muscles, and nerves were removed from the subjects. As a result of these operations, many victims suffered intense agony, mutilation, and permanent disability. The defendants Karl Brandt, Handloser, Rostock, Gebhardt, Rudolf Brandt, Oberheuser, and Fischer are charged with special responsibility for and participation in these crimes.

(*G*) *Sea-water Experiments.* From about July 1944 to about September 1944 experiments were conducted at the Dachau concentration camp, for the benefit of the German Air Force and Navy, to study various methods of making sea water drinkable. The subjects were deprived of all food and given only chemically processed sea water. Such experiments caused great pain and suffering and resulted in serious bodily injury to the victims. The defendants Karl Brandt, Handloser, Rostock, Schroeder, Gebhardt, Rudolf Brandt, Mrugowsky, Poppendick, Sievers, Becker-Freyseng, Schaefer, and Beiglboeck are charged with special responsibility for and participation in these crimes.

(*H*) *Epidemic Jaundice Experiments.* From about June 1943 to about January 1945 experiments were conducted at the Sachsenhausen and Natzweiler concentration camps, for the benefit of the German Armed Forces, to investigate the causes of, and inoculations against, epidemic jaundice. Experimental subjects were deliberately infected with epidemic jaundice, some of whom died as a result, and others were caused great pain and suffering. The defendants Karl Brandt, Handloser, Rostock, Schroeder, Gebhardt, Rudolf Brandt, Mrugowsky, Poppendick, Sievers, Rose, and Becker-Freyseng are charged with special responsibility for and participation in these crimes.

(*I*) *Sterilization Experiments.* From about March 1941 to about January 1945 sterilization experiments were conducted at the Auschwitz and Ravensbrueck concentration camps, and other places. The purpose of these experiments was to develop a method of sterilization which would be suitable for sterilizing millions of people with a minimum of time and effort. These experiments were conducted by means of X-ray, surgery, and various drugs. Thousands of victims were sterilized and thereby suffered great mental and physical anguish. The defendants Karl Brandt, Gebhardt, Rudolf Brandt, Mrugowsky, Poppendick, Brack, Pokorny, and Oberheuser are charged with special responsibility for and participation in these crimes.

(*J*) *Spotted Fever (Fleckfieber)* Experiments.* From about December 1941 to about February 1945 experiments were conducted at the Buchenwald and Natzweiler concentration camps, for the benefit

*It was definitely ascertained in the course of the proceedings, by both prosecution and defense, that the correct translation of "Fleckfieber" is *typhus*. A finding to this effect is contained in the judgment. A similar initial inadequate translation occurred in the case of "typhus" and "paratyphus" which should be rendered as *typhoid* and *paratyphoid*.

of the German Armed Forces, to investigate the effectiveness of spotted fever and other vaccines. At Buchenwald numerous healthy inmates were deliberately infected with spotted fever virus in order to keep the virus alive; over 90 percent of the victims died as a result. Other healthy inmates were used to determine the effectiveness of different spotted fever vaccines and of various chemical substances. In the course of these experiments 75 percent of the selected number of inmates were vaccinated with one of the vaccines or nourished with one of the chemical substances and, after a period of 3 to 4 weeks, were infected with spotted fever germs. The remaining 25 percent were infected without any previous protection in order to compare the effectiveness of the vaccines and the chemical substances. As a result, hundreds of the persons experimented upon died. Experiments with yellow fever, smallpox, typhus, paratyphus* A and B, cholera, and diphtheria were also conducted. Similar experiments with like results were conducted at Natzweiler concentration camp. The defendants Karl Brandt, Handloser, Rostock, Schroeder, Genzken, Gebhardt, Rudolf Brandt, Mrugowsky, Poppendick, Sievers, Rose, Becker-Freyseng, and Hoven are charged with special responsibility for and participation in these crimes.

(*K*) *Experiments with Poison.* In or about December 1943, and in or about October 1944, experiments were conducted at the Buchenwald concentration camp to investigate the effect of various poisons upon human beings. The poisons were secretly administered to experimental subjects in their food. The victims died as a result of the poison or were killed immediately in order to permit autopsies. In or about September 1944 experimental subjects were shot with poison bullets and suffered torture and death. The defendants Genzken, Gebhardt, Mrugowsky, and Poppendick are charged with special responsibility for and participation in these crimes.

(*L*) *Incendiary Bomb Experiments.* From about November 1943 to about January 1944 experiments were conducted at the Buchenwald concentration camp to test the effect of various pharmaceutical preparations on phosphorous burns. These burns were inflicted on experimental subjects with phosphorous matter taken from incendiary bombs, and caused severe pain, suffering, and serious bodily injury. The defendants Genzken, Gebhardt, Mrugowsky, and Poppendick are charged with special responsibility for and participation in these crimes.

7. Between June 1943 and September 1944 the defendants Rudolf Brandt and Sievers unlawfully, willfully, and knowingly committed war crimes, as defined by Article II of Control Council Law No. 10, in that they were principals in, accessories to, ordered, abetted, took a consenting part in, and were connected with plans and enterprises involving the murder of civilians and members of the armed forces of

*Ibid.

nations then at war with the German Reich and who were in the custody of the German Reich in exercise of belligerent control. One hundred twelve Jews were selected for the purpose of completing a skeleton collection for the Reich University of Strasbourg. Their photographs and anthropological measurements were taken. Then they were killed. Thereafter, comparison tests, anatomical research, studies regarding race, pathological features of the body, form and size of the brain, and other tests, were made. The bodies were sent to Strasbourg and defleshed.

8. Between May 1942 and January 1944 * the defendants Blome and Rudolf Brandt unlawfully, willfully, and knowingly committed war crimes, as defined by Article II of Control Council Law No. 10, in that they were principals in, accessories to, ordered, abetted, took a consenting part in, and were connected with plans and enterprises involving the murder and mistreatment of tens of thousands of Polish nationals who were civilians and members of the armed forces of a nation then at war with the German Reich and who were in the custody of the German Reich in exercise of belligerent control. These people were alleged to be infected with incurable tuberculosis. On the ground of insuring the health and welfare of Germans in Poland, many tubercular Poles were ruthlessly exterminated while others were isolated in death camps with inadequate medical facilities.

9. Between September 1939 and April 1945 the defendants Karl Brandt, Blome, Brack, and Hoven unlawfully, willfully, and knowingly committed war crimes, as defined by Article II of Control Council Law No. 10, in that they were principals in, accessories to, ordered, abetted, took a consenting part in, and were connected with plans and enterprises involving the execution of the so-called "euthanasia" program of the German Reich in the course of which the defendants herein murdered hundreds of thousands of human beings, including nationals of German-occupied countries. This program involved the systematic and secret execution of the aged, insane, incurably ill, of deformed children, and other persons, by gas, lethal injections, and diverse other means in nursing homes, hospitals, and asylums. Such persons were regarded as "useless eaters" and a burden to the German war machine. The relatives of these victims were informed that they died from natural causes, such as heart failure. German doctors involved in the "euthanasia" program were also sent to Eastern occupied countries to assist in the mass extermination of Jews.

10. The said war crimes constitute violations of international conventions, particularly of Articles 4, 5, 6, 7, and 46 of the Hague Regulations, 1907, and of Articles 2, 3, and 4 of the Prisoner-of-War Con-

*Indictment originally read "January 1943" but was amended by a motion filed with the Secretary General. See Arraignment, p. 18.

vention (Geneva, 1929), the laws and customs of war, the general principles of criminal law as derived from the criminal laws of all civilized nations, the internal penal laws of the countries in which such crimes were committed, and of Article II of Control Council Law No. 10.

COUNT THREE—CRIMES AGAINST HUMANITY

11. Between September 1939 and April 1945 all of the defendants herein unlawfully, willfully, and knowingly committed crimes against humanity, as defined by Article II of Control Council Law No. 10, in that they were principals in, accessories to, ordered, abetted, took a consenting part in, and were connected with plans and enterprises involving medical experiments, without the subjects' consent, upon German civilians and nationals of other countries, in the course of which experiments the defendants committed murders, brutalities, cruelties, tortures, atrocities, and other inhuman acts. The particulars concerning such experiments are set forth in paragraph 6 of count two of this indictment and are incorporated herein by reference.

12. Between June 1943 and September 1944 the defendants Rudolf Brandt and Sievers unlawfully, willfully, and knowingly committed crimes against humanity, as defined by Article II of Control Council Law No. 10, in that they were principals in, accessories to, ordered, abetted, took a consenting part in, and were connected with plans and enterprises involving the murder of German civilians and nationals of other countries. The particulars concerning such murders are set forth in paragraph 7 of count two of this indictment and are incorporated herein by reference.

13. Between May 1942 and January 1944 * the defendants Blome and Rudolf Brandt unlawfully, willfully, and knowingly committed crimes against humanity, as defined by Article II of Control Council Law No. 10, in that they were principals in, accessories to, ordered, abetted, took a consenting part in, and were connected with plans and enterprises involving the murder and mistreatment of tens of thousands of Polish nationals. The particulars concerning such murder and inhuman treatment are set forth in paragraph 8 of count two of this indictment and are incorporated herein by reference.

14. Between September 1939 and April 1945 the defendants Karl Brandt, Blome, Brack, and Hoven unlawfully, willfully, and knowingly committed crimes against humanity, as defined by Article II of Control Council Law No. 10, in that they were principals in, accessories to, ordered, abetted, took a consenting part in, and were connected with plans and enterprises involving the execution of the so-called "euthanasia" program of the German Reich, in the course of

*Ibid.

which the defendants herein murdered hundreds of thousands of human beings, including German civilians, as well as civilians of other nations. The particulars concerning such murders are set forth in paragraph 9 of count two of this indictment and are incorporated herein by reference.

15. The said crimes against humanity constitute violations of international conventions, including Article 46 of the Hague Regulations, 1907, the laws and customs of war, the general principles of criminal law as derived from the criminal laws of all civilized nations, the internal penal laws of the countries in which such crimes were committed, and of Article II of Control Council Law No. 10.

COUNT FOUR—MEMBERSHIP IN CRIMINAL ORGANIZATION

16. The defendants Karl Brandt, Genzken, Gebhardt, Rudolf Brandt, Mrugowsky, Poppendick, Sievers, Brack, Hoven, and Fischer are guilty of membership in an organization declared to be criminal by the International Military Tribunal in Case No. 1, in that each of the said defendants was a member of the SCHUTZSTAFFELN DER NATIONALSOZIALISTISCHEN DEUTSCHEN ARBEITER-PARTEI (commonly known as the "SS") after 1 September 1939. Such membership is in violation of paragraph I (*d*), Article II of Control Council Law No. 10.

Wherefore, this indictment is filed with the Secretary General of the Military Tribunals and the charges herein made against the above-named defendants are hereby presented to MILITARY TRIBUNAL NO. I.

TELFORD TAYLOR
Brigadier General, USA
Chief of Counsel for War Crimes
Acting on Behalf of the United States of America

Nuernberg, *25 October 1946*

II. ARRAIGNMENT

Extract from the official Transcript of Military Tribunal I in the matter of the *United States of America* vs. *Karl Brandt et al.*, defendants, sitting at Nuernberg, Germany, on 21 November 1946, Judge Beals presiding

PRESIDING JUDGE BEALS: We will now proceed to arraign the defendants on the cause now pending before this Tribunal. As the names of the defendants are called each defendant will stand, and will remain standing until told to be seated. Mr. Secretary General of the Tribunal will call the roll of the defendants.

THE SECRETARY GENERAL: Karl Brandt, Siegfried Handloser, Paul Rostock, Oskar Schroeder, Karl Genzken, Karl Gebhardt, Kurt Blome, Rudolf Brandt, Joachim Mrugowsky, Helmut Poppendick, Wolfram Sievers, Gerhard Rose, Siegfried Ruff, Hans Wolfgang Romberg, Viktor Brack, Hermann Becker-Freyseng, Georg August Weltz, Konrad Schaefer, Waldemar Hoven, Wilhelm Beiglboeck, Adolf Pokorny, Herta Oberheuser, Fritz Fischer. (As their names are called, the defendants rise.)

If the Honorable Tribunal please, all of the defendants are in the dock.

PRESIDING JUDGE BEALS: The defendants will be seated.

The counsel for the prosecution will now proceed with the arraignment of the defendants.

[Here Brigadier General Taylor read the indictment in full. See pp. 8–17.]

PRESIDING JUDGE BEALS: I shall now call upon the defendants to plead guilty or not guilty to the charges against them. Each defendant, as his name is called, will stand and speak into the microphone. At this time there will be no arguments, speeches, or discussion of any kind. Each defendant will simply plead either guilty or not guilty to the offenses with which he is charged by the indictment.

Karl Brandt.

DR. PELCKMANN: Mr. Chairman, before the defendant pleads guilty or not guilty, may I say a word? I am defense counsel for the defendant Schaefer, number 18.

PRESIDING JUDGE BEALS: For which defendant?

DR. PELCKMANN: Schaefer, number 18.

PRESIDING JUDGE BEALS: We are now receiving the plea of the defendant Karl Brandt. You do not represent him as counsel, do you?

DR. PELCKMANN: No.

PRESIDING JUDGE BEALS: Then I see no reason for counsel for another defendant making any remarks at this time.

Dr. PELCKMANN: May I speak before the defendant Schaefer speaks? A formal objection.

PRESIDING JUDGE BEALS: When the name of the defendant Schaefer is called, you may address the Court.

Karl Brandt, are you represented by counsel in this proceeding?

DEFENDANT KARL BRANDT: Yes.

PRESIDING JUDGE BEALS: How do you plead to the charges and specifications and each thereof set forth in the indictment against you, guilty or not guilty?

~~DEFENDANT HANDLOSER: Yes.~~ Defendant Karl Brandt: Not guilty

PRESIDING JUDGE BEALS: Be seated.

Siegfried Handloser, are you represented by counsel in this cause?

DEFENDANT HANDLOSER: No, I have no counsel yet.

PRESIDING JUDGE BEALS: Do you desire that the Tribunal appoint counsel for you?

DEFENDANT HANDLOSER: I hope that today or tomorrow I may receive an affirmative answer from a defense counsel.

PRESIDING JUDGE BEALS: Are you at this time ready to plead to the indictment, guilty or not guilty?

DEFENDANT HANDLOSIER: Yes.

PRESIDING JUDGE BEALS: How do you plead to the charges and specifications and each thereof set forth in the indictment against you, guilty or not guilty?

DEFENDANT HANDLOSER: Not guilty.

PRESIDING JUDGE BEALS: Be seated.

[At this point the defendants Paul Rostock, Oskar Schroeder, Karl Genzken, Karl Gebhardt, Kurt Blome, Rudolf Brandt, Joachim Mrugowsky, Helmut Poppendick, Wolfram Sievers, Gerhard Rose, Siegfried Ruff, Hans Wolfgang Romberg, Viktor Brack, Hermann Becker-Freyseng and Georg August Weltz were arraigned. All were represented by counsel. All pleaded not guilty to the indictment.]

DR. PELCKMANN: Your Honor, may I speak?

PRESIDING JUDGE BEALS: What is the purpose of the remarks you desire to make?

DR. PELCKMANN: I should like to object to the indictment. I should like to say that in my opinion, as far as Schaefer is concerned, the indictment does not conform to Ordinance No. 7. I can explain that.

PRESIDING JUDGE BEALS: How much time do you desire to present your argument?

DR. PELCKMANN: Three minutes.

PRESIDING JUDGE BEALS: You may proceed. First, have you filed in the proceeding any written notice of the objection to the indictment and served it upon the prosecutor?

Dr. Pelckmann: I have not had the indictment long enough. I have just had the written material for 2 days. What I have to say I could submit in writing later. Because of the brief time, I ask to be allowed to make a brief statement now.

Presiding Judge Beals: You may make a brief statement and submit argument in support of your objection within 5 days.

Dr. Pelckmann: Very well. May I now say something?

Presiding Judge Beals: You may proceed for 3 minutes.

Dr. Pelckmann: Ordinance No. 7, in Article IV (*a*), prescribes the following according to the English text: "The indictment shall state the charges plainly, concisely and with sufficient particulars to inform defendant of the offenses charged." Schaefer is charged only on one count, count two (*G*). Experiments with sea water in Dachau are charged against 12 defendants. In two sentences the indictment goes on to say that the 12 persons who are then named are charged with special responsibility for these crimes and participation in them. I am of the opinion that this does not contain sufficient particulars. "Responsibility" and "participation" are legal concepts. There is no evidence of "sufficient particulars," which implies details.

The indictment, in my opinion, must give facts to indicate how and why each one of these 12 defendants who, ostensibly, participated in these experiments, is responsible and participated. My client cannot tell what the nature of his participation is supposed to have been.

The indictment says, in count one, number 2, that all defendants were principals in, accessories to, ordered, abetted, took a consenting part in, and were connected with plans and enterprises involving the commission of war crimes and crimes against humanity. Those also are only legal concepts.

Presiding Judge Beals: You may file a written brief in support of your position.

Dr. Pelckmann: I should like to add, without the knowledge of the indictment, my client is not ready to answer the question as to whether he is guilty or not guilty.

Presiding Judge Beals: You will serve a copy of your brief upon the prosecution and file it with the Secretary General.

Dr. Pelckmann: Very well, your Honor.

Presiding Judge Beals: In connection with this matter, General Taylor, do you desire to make any remarks or suggestions?

Brigadier General Taylor: Your Honor, needless to say, we have no objection to the making of this motion or the filing of this brief. It is needless to say, also, that we think the indictment quite adequately specifies the date, place, and type of experiment charged. The defendant's connection with it is better known to the defendant than to anyone else. There is no reason why he should not enter his plea at this time.

JUDGE SEBRING: That would not go to the jurisdictional aspect of the indictment, but it would go to the question of particulars. The consideration is whether or not upon the showing of the motion, more particulars as to the charges specified, should be included. Do you understand my point?

BRIGADIER GENERAL TAYLOR: Yes, your Honor. That is what I understood. The prosecution will consider the motion, and if need be, submit particulars, although we think the indictment is adequate enough. We think there is no challenge of the jurisdiction. The defendant should be required to promptly plead.

JUDGE CRAWFORD: How do you plead to the charges against you?

DEFENDANT SCHAEFER: Not guilty.

PRESIDING JUDGE BEALS: Be seated.

[At this point the balance of the defendants: Waldemar Hoven, Wilhelm Beiglboeck, Adolf Pokorny, Herta Oberheuser and Fritz Fischer were arraigned. All were represented by counsel. All pleaded not guilty to the indictment.]

DR. SERVATIUS: Servatius for the defendant Karl Brandt. Your Honor, may I make an application regarding the submission of documents by the prosecution?

PRESIDING JUDGE BEALS: You may state your application.

DR. SERVATIUS: Your Honor, I ask the Tribunal to instruct the prosecution that the documents be submitted to the defense in time, the documents on which the charge is based. This would make the proceedings easier and give the defense an opportunity to examine the documents in time, and to obtain counterproof.

In the first trial before the International Military Tribunal, we were given a list of documents with the indictment; although these documents were not enclosed, we could look at them and we could work on them. Up to now we have nothing on which we can build our defense. In other words, on the 9th of December, we will have proceeded no further than today, and we will not be able to advise our clients.

PRESIDING JUDGE BEALS: You may be seated and we will hear from the prosecution, Brigadier General Telford Taylor.

BRIGADIER GENERAL TAYLOR: Your Honor, the counsel for the defense who has just spoken is thoroughly familiar with the procedures used in the prior case. The prosecution in this case plans to follow the same procedures and give the defense counsel the same opportunities and, if possible, more. The Defense Information Center, which is the place where the documents have in the past been made available, will be supplied in advance with copies of the documents on which our evidence is based. I would suggest, your Honor, that after all counsel for the defense are here that it would be most useful if there be a meeting between representatives of the prosecution and the defense so that procedures can be developed. But at the moment

only half of the counsel for the defense are here and it would be economical if these matters could be arranged after they are all present.

DR. SERVATIUS: Your Honor, may I ask one question? May I add one thing, that the documents be given to us in German. In the previous trial, there was difficulty at the beginning because we got them in English.

PRESIDING JUDGE BEALS: I believe if counsel for the defense will refer to the rules promulgated by this Tribunal on 2 November 1946, you will see that a requirement is made that all such matters be submitted in a language that is understood by each of the defendants.

DR. SERVATIUS: Yes, but for technical reasons that was not always done. There were great difficulties. The conferences with the prosecution will make it possible to eliminate the difficulties. If it is not possible, I will address the Court again.

PRESIDING JUDGE BEALS: Do you have anything further, General Taylor?

BRIGADIER GENERAL TAYLOR: Your Honor, the prosecution merely wishes to note that it has filed with the Secretary General a motion to amend the indictment in paragraph 8 of count two and paragraph 13 of count three, by changing 1943 to 1944. The motion has been filed with the Secretary General and copies of the motion are in German and are in the hands of defense counsel.

PRESIDING JUDGE BEALS: How many of the defendants are concerned with the amendment to the indictment? My point is that if the—

MR. MCHANEY: If the Tribunal please, the amendment occurs first in paragraph 8 on page 14 of the indictment and it affects only two of the defendants; namely, Blome and Rudolf Brandt. The amendment is also made in paragraph 13 because the same facts are there charged as a crime against humanity. In paragraph 13 only the same two defendants are involved; that is, defendants Blome and Rudolf Brandt.

PRESIDING JUDGE BEALS: What are the particulars of the amendment?

MR. MCHANEY: The only change made by the amendment is to say the date January 1944 for the date January 1943; in other words, it extends the period covered by the crime for 1 year. The date 1943 was inserted by mistake in the indictment as filed with the Tribunal.

PRESIDING JUDGE BEALS: Are these two defendants represented by counsel here present this morning?

MR. MCHANEY: I think that Rudolf Brandt answered "Yes".

DEFENDANT BLOME: Yes, your Honor.

PRESIDING JUDGE BEALS: Has this motion been served upon counsel for these two defendants?

MR. MCHANEY: Your Honor, my understanding is that the motion for amendment was filed with the Secretary General. If we understand the rules correctly, the Secretary General then serves it upon the defendants.

PRESIDING JUDGE BEALS: I was just asking for information whether they had received copies of the motion.

MR. MCHANEY: That I don't know. Yes, the counsel for these defendants say "Yes".

PRESIDING JUDGE BEALS: Does counsel for defendant Blome raise any objection to the amendment of the indictment?

DR. SAUTER: No.

DR. KAUFFMANN: Kauffmann for Rudolf Brandt. I have no objection to the change.

PRESIDING JUDGE BEALS: You represent Rudolf Brandt?

DR. KAUFFMANN: Yes.

PRESIDING JUDGE BEALS: Well, the other defendant affected is defendant Blome, I understand. Is he represented here?

DR. SAUTER: Dr. Sauter for the defendant Blome. We don't have any objection.

PRESIDING JUDGE BEALS: The indictment will be amended in accordance with the motion.

Is it agreeable to counsel for these two defendants that the arraignment as to them upon this count which has just been amended be considered as pleas to the count as amended now—their pleas of "Not Guilty"?

DR. SAUTER: Yes.

DR. KAUFFMANN: Yes.

PRESIDING JUDGE BEALS: These matters will appear in the records of the Tribunal. The pleas of the defendants will all be entered in the minutes of the Tribunal.

III. STATEMENT OF THE TRIBUNAL ON THE ORDER OF TRIAL AND RULES OF PROCEDURE, 9 DECEMBER 1946*

PRESIDING JUDGE BEALS: I have a statement which I desire to make for the benefit of the prosecution, defendants, and all concerned: Before opening the trial of Case No. 1, *The United States of America against Karl Brandt, et al.*, there are certain matters which the Tribunal desires to call to the attention of the counsel for the prosecution and the counsel for the defendants.

1. The prosecution may be allowed, for the purpose of making the opening statement in this case, time not to exceed one trial day. This time may be allocated by the chief prosecutor, between himself and any of his assistants, as he desires.

2. When the prosecution has rested its case, defense counsel will be allowed two trial days in which to make their opening statements, and which will comprehend the entire theory of their respective defenses. The time allocated will be divided between the different defense counsel, as they may themselves agree. In the event the defense counsel cannot agree, the Tribunal will allocate the time, not to exceed 30 minutes to each defendant.

3. The prosecution shall, not less than 24 hours before it desires to offer any record or document or writing in evidence as part of its case-in-chief, file with the Defense Information Center not less than one copy of such record, document, or writing for each of the counsel for defendants, such copies to be in the German language. The prosecution shall also deliver to the Defense Information Center at least four copies thereof in the English language.

4. When the prosecution or any defendant offers a record, document, or any other writing, or a copy thereof, in evidence, there shall be delivered to the Secretary General in addition to the original document or other instrument in writing so offered for admission in evidence, six copies of the document. If the document is written or printed in a language other than English there shall also be filed with the copies of the document above referred to six copies of an English translation of the document. If such document is offered by any defendant, suitable facilities for procuring English translations of that document shall be made available.

5. At least 24 hours before a witness is called to the stand, either by the prosecution or by any defendant, the party who desires to inter-

*Tr. pp. 9–11.

rogate the witness shall deliver to the Secretary General an original and six copies of a memorandum which shall disclose: (1) the name of the witness; (2) his nationality; (3) his residence or station; (4) his official rank or position; (5) whether he is called as an expert witness or as a witness to testify to facts, and if the latter, a prepared statement of the subject matter on which the witness will be interrogated. When the prosecution prepares such a statement in connection with the witness whom it desires to call, at the time of the filing of this statement, two additional copies thereof shall be delivered to the Defense Information Center. When a defendant prepares such a statement concerning a witness whom it desires to call, the defendant shall at the same time as the copies are filed with the Secretary General deliver one additional copy to the prosecution.

6. When either the prosecution or a defendant desires the Tribunal to take judicial notice of any official Government documents or reports of the United Nations, including any action, ruling or regulation of any committee, board, or counsel, heretofore established by or in the Allied Nations for the investigation of war crimes, or any record made by, or the findings of, any military or other tribunal, this Tribunal may refuse to take judicial notice of such documents, rules, or regulations, unless the party proposing asks this Tribunal to notice such documents, rules, or regulations judicially, and places a copy thereof in writing before the Tribunal.

This Tribunal has learned with satisfaction of the procedure adopted by the prosecution with the intention of furnishing to the defense counsel information concerning the writings or documents which the prosecution expects to offer in evidence for the purpose of affording the defense counsel information to help them prepare their respective defense to the indictments. The desire of the Tribunal is that this be made available to the defendants so as to aid them in the presentation of their respective defense.

The United States of America having established this Military Tribunal I, pursuant to law, through properly empowered military authorities, and the defendants having been brought before Military Tribunal I pursuant to the indictment filed 25 October 1946 in the Office of the Secretary General of the Military Tribunal at Nuernberg, Germany by an officer of the United States Army, regularly designated as Chief of Counsel for War Crimes, acting on behalf of the United States of America, pursuant to appropriate military authority, and the indictment having been served upon each defendant for more than 30 days prior to this date, and a copy of the indictment in the German language having been furnished to each defendant and having been in his possession more than 30 days and each defendant having had ample opportunity to read the indictment, and having regu-

larly entered his plea of "not guilty" to the indictment, the Tribunal is ready to proceed with the trial.

This Tribunal will conduct the trial in accordance with controlling laws, rules, and regulations, and with due regard to appropriate precedents in a sincere endeavor to insure both to the prosecution and to each and every defendant an opportunity to present all evidence of an appropriate value bearing upon the issues before the Tribunal; to this end, that under law and pending regulations impartial justice may be accomplished.

The trial, of course, will be a public trial, not one behind closed doors; but, because of limited facilities available, the Tribunal must insist that the number of spectators be limited to the seating capacity of the courtroom. Passes will therefore be issued by the appropriate authorities to those who may enter the courtroom. The Tribunal will insist that good order be at all times maintained, and appropriate measures will be taken to see that this rule is strictly enforced.

For the information of all concerned, the Tribunal announces that hearings will be held each day this week commencing at 9:30 o'clock through Friday. The Tribunal will reconvene at 9:30 o'clock, Monday, 16 December 1946, and will hold sessions every day of that week including Saturday, on which day, however, the Tribunal will recess until 9:30 o'clock, Thursday, 2 January 1947, when the Tribunal will convene at the usual time.

IV. OPENING STATEMENT OF THE PROSECUTION BY BRIGADIER GENERAL TELFORD TAYLOR, 9 DECEMBER 1946.*

The defendants in this case are charged with murders, tortures, and other atrocities committed in the name of medical science. The victims of these crimes are numbered in the hundreds of thousands. A handful only are still alive; a few of the survivors will appear in this courtroom. But most of these miserable victims were slaughtered outright or died in the course of the tortures to which they were subjected.

For the most part they are nameless dead. To their murderers, these wretched people were not individuals at all. They came in wholesale lots and were treated worse than animals. They were 200 Jews in good physical condition, 50 gypsies, 500 tubercular Poles, or 1,000 Russians. The victims of these crimes are numbered among the anonymous millions who met death at the hands of the Nazis and whose fate is a hideous blot on the page of modern history.

The charges against these defendants are brought in the name of the United States of America. They are being tried by a court of American judges. The responsibilities thus imposed upon the representatives of the United States, prosecutors and judges alike, are grave and unusual. It is owed, not only to the victims and to the parents and children of the victims, that just punishment be imposed on the guilty, but also to the defendants that they be accorded a fair hearing and decision. Such responsibilities are the ordinary burden of any tribunal. Far wider are the duties which we must fulfill here.

These larger obligations run to the peoples and races on whom the scourge of these crimes was laid. The mere punishment of the defendants, or even of thousands of others equally guilty, can never redress the terrible injuries which the Nazis visited on these unfortunate peoples. For them it is far more important that these incredible events be established by clear and public proof, so that no one can ever doubt that they were fact and not fable; and that this Court, as the agent of the United States and as the voice of humanity, stamp these acts, and the ideas which engendered them, as barbarous and criminal.

We have still other responsibilities here. The defendants in the dock are charged with murder, but this is no mere murder trial. We cannot rest content when we have shown that crimes were committed and that certain persons committed them. To kill, to maim, and to torture is criminal under all modern systems of law. These defendants

*Tr. pp. 12–74.

did not kill in hot blood, nor for personal enrichment. Some of them may be sadists who killed and tortured for sport, but they are not all perverts. They are not ignorant men. Most of them are trained physicians and some of them are distinguished scientists. Yet these defendants, all of whom were fully able to comprehend the nature of their acts, and most of whom were exceptionally qualified to form a moral and professional judgment in this respect, are responsible for wholesale murder and unspeakably cruel tortures.

It is our deep obligation to all peoples of the world to show why and how these things happened. It is incumbent upon us to set forth with conspicuous clarity the ideas and motives which moved these defendants to treat their fellow men as less than beasts. The perverse thoughts and distorted concepts which brought about these savageries are not dead. They cannot be killed by force of arms. They must not become a spreading cancer in the breast of humanity. They must be cut out and exposed, for the reason so well stated by Mr. Justice Jackson in this courtroom a year ago—

> "The wrongs which we seek to condemn and punish have been so calculated, so malignant, and so devastating, that civilization cannot tolerate their being ignored because it cannot survive their being repeated."

To the German people we owe a special responsibility in these proceedings. Under the leadership of the Nazis and their war lords, the German nation spread death and devastation throughout Europe. This the Germans now know. So, too, do they know the consequences to Germany: defeat, ruin, prostration, and utter demoralization. Most German children will never, as long as they live, see an undamaged German city.

To what cause will these children ascribe the defeat of the German nation and the devastation that surrounds them? Will they attribute it to the overwhelming weight of numbers and resources that was eventually leagued against them? Will they point to the ingenuity of enemy scientists? Will they perhaps blame their plight on strategic and military blunders by their generals?

If the Germans embrace those reasons as the true cause of their disaster, it will be a sad and fatal thing for Germany and for the world. Men who have never seen a German city intact will be callous about flattening English or American or Russian cities. They may not even realize that they are destroying anything worthwhile, for lack of a normal sense of values. To reestablish the greatness of Germany they are likely to pin their faith on improved military techniques. Such views will lead the Germans straight into the arms of the Prussian militarists to whom defeat is only a glorious opportunity to start a new war game. "Next time it will be different." We know all too well what that will mean.

This case, and others which will be tried in this building, offer a signal opportunity to lay before the German people the true cause of their present misery. The walls and towers and churches of Nuernberg were, indeed, reduced to rubble by Allied bombs, but in a deeper sense Nuernberg had been destroyed a decade earlier, when it became the seat of the annual Nazi Party rallies, a focal point for the moral disintegration in Germany, and the private domain of Julius Streicher. The insane and malignant doctrines that Nuernberg spewed forth account alike for the crimes of these defendants and for the terrible fate of Germany under the Third Reich.

A nation which deliberately infects itself with poison will inevitably sicken and die. These defendants and others turned Germany into an infernal combination of a lunatic asylum and a charnel house. Neither science, nor industry, nor the arts could flourish in such a foul medium. The country could not live at peace and was fatally handicapped for war. I do not think the German people have as yet any conception of how deeply the criminal folly that was nazism bit into every phase of German life, or of how utterly ravaging the consequences were. It will be our task to make these things clear.

These are the high purposes which justify the establishment of extraordinary courts to hear and determine this case and others of comparable importance. That murder should be punished goes without the saying, but the full performance of our task requires more than the just sentencing of these defendants. Their crimes were the inevitable result of the sinister doctrines which they espoused, and these same doctrines sealed the fate of Germany, shattered Europe, and left the world in ferment. Wherever those doctrines may emerge and prevail, the same terrible consequences will follow. That is why a bold and lucid consummation of these proceedings is of vital importance to all nations. That is why the United States has constituted this Tribunal.

STATE MEDICAL SERVICES OF THE THIRD REICH

I pass now to the facts of the case in hand. There are 23 defendants in the box. All but three of them—Rudolf Brandt, Sievers, and Brack—are doctors. Of the 20 doctors, all but one—Pokorny—held positions in the medical services of the Third Reich. To understand this case, it is necessary to understand the general structure of these state medical services, and how these services fitted into the over-all organization of the Nazi State.

To assist the Court in this regard the prosecution has prepared a short expository brief [not introduced into evidence] which is already in the hands of the Court and which has been made available to defense counsel in German and English. The brief includes a glossary

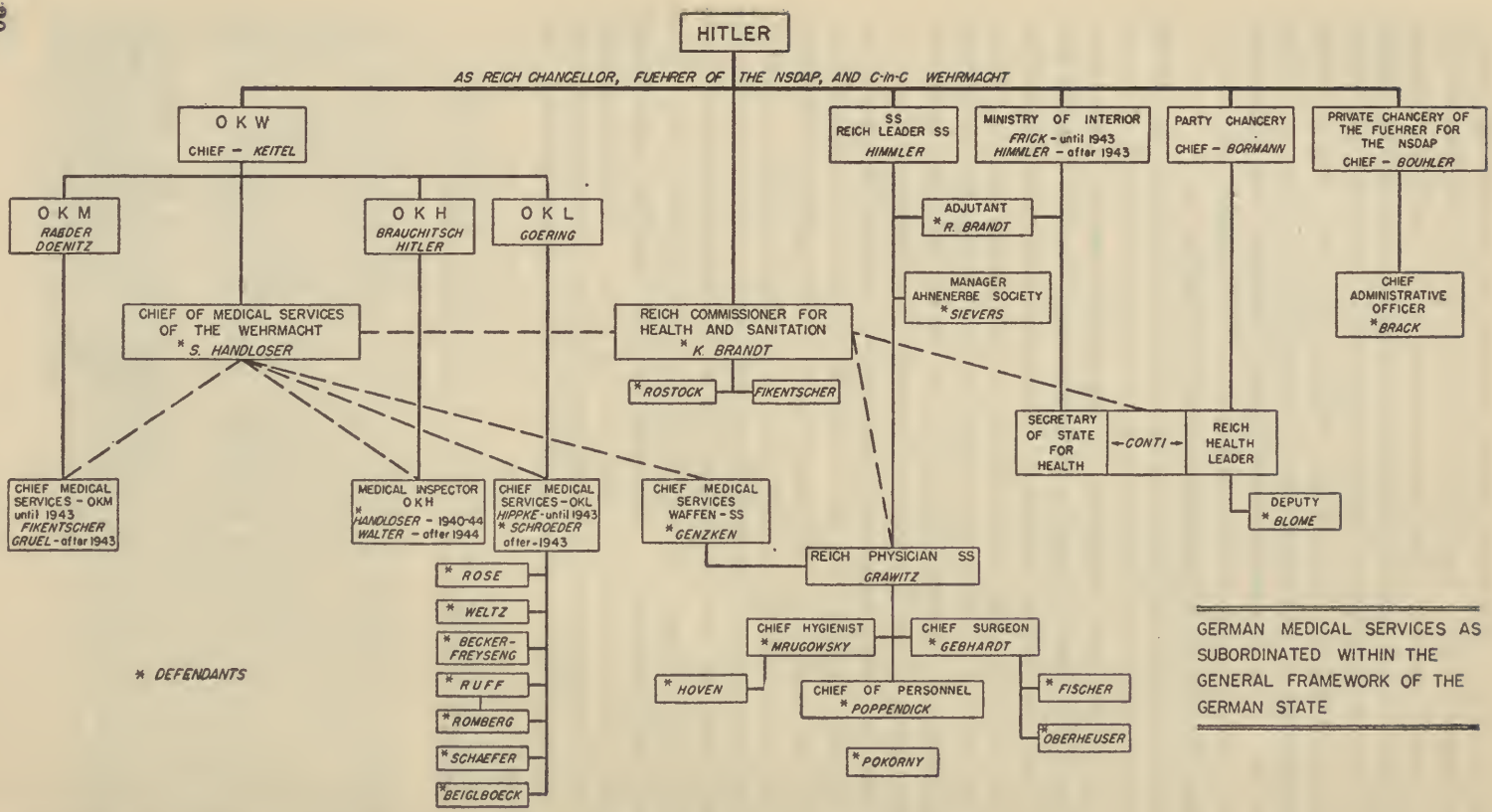

Chart Showing German State Medical Service

of the more frequent German words or expressions which will occur in this trial—most of them from the vocabulary of military, medical, or governmental affairs. It also includes a table of equivalent ranks [App. Vol. II] between the American Army and the German Army and the SS, and of the medical ranks used in the German Armed Forces and the SS. Finally, it includes a chart [see p. 30] showing the subordination of the several German medical services within the general framework of the German State. This chart has been enlarged and is displayed at the front of the courtroom.

Following this opening statement Mr. McHaney, in opening the presentation of evidence on behalf of the prosecution, will offer in evidence a series of detailed charts of the various German medical services, which have been certified as accurate by the defendants Handloser, Schroeder, Karl Brandt, Mrugowsky, and Brack. The chart to which I am now directing the attention of the Tribunal is a composite chart based upon those which Mr. McHaney will offer in evidence. The chart in the front of the courtroom to which I now refer will not be offered in evidence; it is intended merely as a convenient guide to the Court and to defense counsel to enable them to follow the opening statement and to comprehend the over-all structure of the German medical services.

All power in the Third Reich derived from Adolf Hitler, who was at one and the same time the head of the government, the leader of the Nazi Party, and the commander in chief of the armed forces. His title as head of the government was Reich Chancellor. He was the "Fuehrer" of the Nazi Party, and the "Supreme Commander" of the Wehrmacht. Immediately subordinate to Hitler were the chiefs of the armed forces, the principal cabinet ministers in the government, and the leading officials of the Nazi Party. The only defendant in the dock who was directly responsible to Hitler himself is the defendant Karl Brandt.

The Court will observe that the defendants fall into three main groups. Eight of them were members of the medical service of the German Air Force. Seven of them were members of the medical service of the SS. The remaining eight include the defendants Karl Brandt and Handloser, who occupied top positions in the medical hierarchy; it included the three defendants who are not doctors; the defendant Rostock, who was an immediate subordinate of Karl Brandt; the defendant Blome, a medical official of the Nazi Party; and the defendant Pokorny, whom we have grouped under the SS for reasons which will appear later.

I will deal first with the military side of the case. Hitler, as Supreme Commander of the German Armed Forces, exercised his authority through a staff called the Supreme Command of the Armed Forces, better known by its German initials, OKW (Oberkommando

der Wehrmacht). The chief of this staff, throughout the period with which this case will concern itself, was Field Marshal Wilhelm Keitel.

Under the OKW came the High Commands of the three branches of the Wehrmacht: the Navy (OKM), the Army (OKH) and the Air Force (OKL). Grand Admiral Erich Raeder was the Commander in Chief of the German Navy until 1943, when he was succeeded by Grand Admiral Karl Doenitz. Prior to the outbreak of the war, the Commander in Chief of the German Army was Field Marshal von Brauchitsch. In December 1941 Brauchitsch was relieved and Hitler himself took this position. Hermann Goering was the Commander in Chief of the German Air Force with the rank of Reich Marshal, until the very last month of the war.

Each of the three branches of the Wehrmacht had its own medical service. For purposes of this case, the medical service of the Navy is not of much importance. During most of the war the defendant Handloser was the Chief of the Medical Service of the German Army; in 1944 he was succeeded in this capacity by Dr. Walter. The Chief of the Medical Service of the German Air Force until 1943 was Dr. Erich Hippke; from January 1944 until the end of the war, it was the defendant Schroeder. Subordinate to the defendant Schroeder are seven other defendants from the Air Force Medical Service, whose functions I will briefly describe later on.

I turn now to the second principal group of defendants—those affiliated with the SS. The SS was nominally a part of the Nazi Party, and came under Hitler in his capacity as Fuehrer of the NSDAP. In fact, during the years of the Nazi regime, the SS expanded into a vast complex of military, police, and intelligence organizations. The head of this extraordinary combine was Heinrich Himmler, with the title of Reich Leader SS. The SS had its own medical service, headed by Grawitz, who bore the title Reich Physician SS.

The SS in turn was divided into many departments, of which one of the most important was the Armed or Waffen SS. The members of the Waffen SS were trained and equipped as regular troops, were formed into regular military formations, and fought at the front side by side with the troops of the Wehrmacht. By the end of the war there were some 30 SS divisions in the line. The head of the Medical Service of the Waffen SS was the defendant Genzken.

Six other defendants were members of the SS Medical Service and therefore subordinated to Grawitz.

The German civilian medical services derived their authority both from the German Government and from the Party. The medical chief on the civilian side was Dr. Leonardo Conti, who committed suicide in October 1945. Dr. Conti occupied the position of State Secretary for Health in the Reich Ministry of the Interior. In this capacity

Conti was a subordinate of the Minister of the Interior, Dr. Wilhelm Frick, until 1943, and thereafter to Heinrich Himmler who assumed the additional duties of Minister of the Interior in that year.

Conti also held the title in the Nazi Party of Reich Health Leader. His deputy in this capacity was the defendant Blome. As Reich Health Leader, Conti was subordinate to the Nazi Party Chancellery, the chief of which was Martin Bormann.

As the Court will see from the chart,* the three principal people in the hierarchy of German state health and medicine are the defendants Karl Brandt and Handloser, and the deceased Dr. Conti. In July 1942, Hitler issued a decree, a copy of which will later be read before the Court, which established the defendant Handloser as Chief of the Medical Services of the Wehrmacht. Shown on the chart here Handloser's name appears in this capacity. Handloser was given supervisory and professional authority over the medical services of all three branches of the Wehrmacht. Inasmuch as the Waffen SS came to constitute an important part of the armed forces, Handloser's supervisory authority also extended to the defendant Genzken, Chief of the Medical Service of the Waffen SS. In this position Handloser was charged with the coordination of all common tasks of the Medical Services of the Wehrmacht and the Waffen SS. He thus became the principal figure in German military medicine, just as Dr. Conti was the central figure in the field of civilian medicine.

Handloser and Conti, as will be seen from the chart, were not directly responsible to Hitler himself. Handloser's responsibility ran to Hitler through the OKW, and Conti's through the Ministry of the Interior and the chief of the Nazi Party Chancellery.

In 1942 Hitler for the first time established a medical and health official under his direct control. This official was the defendant Karl Brandt. A Hitler decree of July 1942 (*NO–080*) gave Brandt the title Plenipotentiary for Health and Medical Services, and empowered him to carry out special tasks and negotiations with reference to the requirements for doctors, hospitals, medical supplies, etc., between the military and civilian sectors of the health and sanitation systems. Brandt's role, therefore, was to coordinate the requirements of the military and civilian agencies in the field of medicine and public health.

Dr. Karl Brandt had been the personal physician to Hitler since 1934. He was only 38 years old at the time he assumed the important duties conferred by the 1942 decree. His rise continued.

In September 1943 Hitler issued another decree which gave Brandt the title of General Commissioner for Sanitation and Health and empowered him to coordinate and direct the problems and activities of the entire administration for sanitation and health. (*NO–081.*)

*This chart is contained in Section VI, Organization of the German Medical Service, NO-645, Pros. Ex. 3, p. 91.

This authority was explicitly extended to the field of medical science and research.

Finally, in August 1944, Hitler appointed Dr. Brandt Reich Commissioner for Sanitation and Health, and stated that in this capacity Brandt's office ranked as the "highest Reich authority." (*NO–082.*) Brandt was authorized to issue instructions to the medical offices and organizations of the government, to the party, and the armed forces, in the field of sanitation and health.

Karl Brandt, as the supreme medical authority in the Reich, appointed the defendant Paul Rostock as his immediate subordinate to head the Office for Scientific and Medical Research. Rostock's position reached into the activities of the medical societies, the medical colleges, and the Reich Research Council. Brandt also appointed Admiral Fikentscher, who had theretofore been the chief medical officer of the German Navy, as his subordinate to head the Office for Planning and Production. In this field, Fikentscher dealt with the principal labor authorities, the Ministry of Economics, and the Ministry for Armament and War Production.

As chief of the Medical Service of the German Air Force, the defendant Schroeder also held one of the most important positions in the German medical hierarchy. He and the defendant Handloser both held the rank of Generaloberstabsarzt, the highest rank in the German medical service and the equivalent of lieutenant general in the American Army. I do not propose to go into detail concerning the positions held by the seven defendants who were under Schroeder, inasmuch as Mr. McHaney will introduce charts which show in great detail the structure of the German Air Force Medical Service, and which have been authenticated by the defendant Schroeder himself. The defendant Rose held a high rank in the Air Force Medical Service equivalent to that of a brigadier general in the American Army and was appointed special adviser to Schroeder on matters pertaining to tropical medicine, held a chair at one of the most important German medical institutes, and is one of the most distinguished scientists in the dock. The defendant Becker-Freyseng headed Schroeder's department for aviation medicine. The defendant Weltz was chief of the Institute for Aviation Medicine at Munich. The particular functions of the defendants Ruff, Romberg, Schaefer, and Beiglboeck will appear as we proceed with the presentation of the evidence.

I will likewise pass over very briefly the detailed functions of the six SS physicians who were shown on the chart as the subordinates of Grawitz. Detailed charts of the SS Medical Service, authenticated by the defendant Mrugowsky, will shortly be introduced in evidence. The defendant Gebhardt was Himmler's personal physician and he held a rank in the SS equivalent to that of a major general in the American Army. He became the president of the German Red

Cross. He was the chief surgeon on Grawitz's staff, and also headed the hospital at Hohenlychen, in which capacity the defendants Oberheuser and Fischer were his assistants. The defendant Poppendick was the chief of Grawitz's personal staff. The defendant Mrugowsky was Grawitz's chief hygienist and also headed the Hygienic Institute of the Waffen SS. The defendant Hoven was the chief doctor of the Buchenwald concentration camp.

The defendant Pokorny is a private physician who had no official connection with the governmental medical service. We have shown him on the chart underneath the group of SS physicians for reasons which will appear in the course of presenting the evidence concerning sterilization experiments (par. 6 (I) of the indictment).

The three defendants who are not doctors are shown in the top right-hand corner of the chart. Two of them—Rudolf Brandt and Brack—are administrative officers. Rudolf Brandt had the rank of colonel in the SS, was sort of personal adjutant, and held an administrative office both in the SS and the Ministry of the Interior. Viktor Brack was the chief administrative officer in Hitler's personal chancellery [Chancellery of the Fuehrer], the head of which was Philipp Bouhler.

The defendant Sievers, who held the rank of colonel in the SS, is a special case. He was a direct subordinate of Heinrich Himmler in the latter's capacity as president of the so-called Ahnenerbe Society. The name of this society literally means "ancestral heritage", and it was originally devoted to scientific and psuedo-scientific researches concerning the anthropological and cultural history of the German race. Later on an Institute for Military Scientific Research was set up within the Ahnenerbe Society. Sievers was the manager of the society and the director of the Institute for Military Scientific Research.

This concludes the general description of the German state medical services under the Nazi regime, and of the positions which the defendants occupied in the scheme of things. It is convenient at this point to refer to count four of the indictment, which charges that 10 of the defendants were members of an organization declared to be criminal by the International Military Tribunal, and that such membership is in violation of paragraph 1 (*d*) of Article II of Control Council Law No. 10. The organization in question is the SS.

This count concerns the defendant Karl Brandt, six of the defendants who were affiliated with the Medical Service of the SS, and three defendants who are not doctors. It does not concern any of the nine defendants on the military side, nor the defendants Rostock, Blome, Oberheuser, or Pokorny.

The International Military Tribunal's declaration of criminality applies to all persons who had been officially accepted as members of any branch of the SS, and who remained members after 1 September

1939. The prosecution will show that all 10 defendants charged in count four were officially accepted as members of the SS and remained so after that date. The defendants Karl Brandt, Genzken, and Gebhardt held ranks in both the General or Allgemeine SS and the Waffen SS equivalent to that of a major general in the American Army. The defendants Mrugowsky, Hoven, Poppendick, and Fischer all held officer rank in the SS or Waffen SS, and all four of them, together with the defendants Genzken and Gebhardt, held positions in the SS Medical Service. The defendant Rudolf Brandt held the rank of colonel in the General (Allgemeine) SS, and was a personal assistant to Himmler in Himmler's capacity as Reich Leader SS. The defendant Brack held officer rank in both the SS and the Waffen SS. The defendant Sievers held the rank of colonel in the SS, and was manager of the Ahnenerbe Society, which was attached to the SS Main Office.

The declaration of criminality by the International Military Tribunal does not apply when it appears that a member of the SS was drafted into membership in such a way as to give him no choice in the matter. Nor does it apply if it appears that the member had no knowledge that the organization was being used for the commission of criminal acts. For purposes of this case, these questions, the prosecution believes, will be academic. All of the defendants charged in count four held officer rank in the SS, and most of them held senior rank. They were moving spirits and personal participants in murder and torture on a large scale, and in a variety of other crimes. In this connection we respectfully invite the Tribunal's attention to two statements by the International Military Tribunal which, under Article X of Ordinance No. 7, constitute proof in the absence of substantial new evidence to the contrary. In setting forth the criminal acts committed by the SS, the International Military Tribunal stated:[1]

> "Also attached to the SS main offices was a research foundation known as the Experiments Ahnenerbe. The scientists attached to this organization are stated to have been mainly honorary members of the SS. During the war an institute for military scientific research became attached to the Ahnenerbe which conducted extensive experiments involving the use of living human beings."

And again it was stated:[2]

> "In connection with the administration of the concentration camps, the SS embarked on a series of experiments on human beings which were performed on prisoners of war or concentration camp inmates. These experiments included freezing to death and killing by poison bullets. The SS was able to obtain an allocation of Government funds for this kind of research on the grounds that they had access to human material not available to other agencies."

[1] Trial of the Major War Criminals, vol. I, p. 269, Nuremberg, 1947.
[2] Ibid., p. 271.

CRIMES COMMITTED IN THE GUISE OF SCIENTIFIC RESEARCH

(Counts two and three, pars. 6, 7, 11, and 12)

I turn now to the main part of the indictment and will outline at this point the prosecution's case relating to those crimes alleged to have been committed in the name of medical or scientific research. The charges with respect to "euthanasia" and the slaughter of tubercular Poles obviously have no relation to research or experimentation and will be dealt with later. What I will cover now comprehends all the experiments charged as war crimes in paragraph 6 and as crimes against humanity in paragraph 11 of the indictment, and the murders committed for so-called anthropological purposes which are charged as war crimes in paragraph 7 and as crimes against humanity in paragraph 12 of the indictment.

Before taking up these experiments one by one, let us look at them as a whole. Are they a heterogeneous list of horrors, or is there a common denominator for the whole group?

A sort of rough pattern is apparent on the face of the indictment. Experiments concerning high altitude, the effect of cold, and the potability of processed sea water have an obvious relation to aeronautical and naval combat and rescue problems. The mustard gas and phosphorous burn experiments, as well as those relating to the healing value of sulfanilamide for wounds, can be related to air-raid and battlefield medical problems. It is well known that malaria, epidemic jaundice, and typhus were among the principal diseases which had to be combated by the German Armed Forces and by German authorities in occupied territories.

To some degree, the therapeutic pattern outlined above is undoubtedly a valid one, and explains why the Wehrmacht, and especially the German Air Force, participated in these experiments. Fanatically bent upon conquest, utterly ruthless as to the means or instruments to be used in achieving victory, and callous to the sufferings of people whom they regarded as inferior, the German militarists were willing to gather whatever scientific fruit these experiments might yield.

But our proof will show that a quite different and even more sinister objective runs like a red thread through these hideous researches. We will show that in some instances the true object of these experiments was not how to rescue or to cure, but how to destroy and kill. The sterilization experiments were, it is clear, purely destructive in purpose. The prisoners at Buchenwald who were shot with poisoned bullets were not guinea pigs to test an antidote for the poison; their murderers really wanted to know how quickly the poison would kill.

This destructive objective is not superficially as apparent in the other experiments, but we will show that it was often there.

Mankind has not heretofore felt the need of a word to denominate the science of how to kill prisoners most rapidly and subjugated people in large numbers. This case and these defendants have created this gruesome question for the lexicographer. For the moment we will christen this macabre science "thanatology," the science of producing death. The thanatological knowledge, derived in part from these experiments, supplied the techniques for genocide, a policy of the Third Reich, exemplified in the "euthanasia" program and in the widespread slaughter of Jews, gypsies, Poles, and Russians. This policy of mass extermination could not have been so effectively carried out without the active participation of German medical scientists.

I will now take up the experiments themselves. Two or three of them I will describe more fully, but most of them will be treated in summary fashion, as Mr. McHaney will be presenting detailed proof of each of them.

A. High-Altitude Experiments

The experiments known as "high-altitude" or "low-pressure" experiments were carried out at the Dachau concentration camp in 1942. According to the proof, the original proposal that such experiments be carried out on human beings originated in the spring of 1941 with a Dr. Sigmund Rascher. Rascher was at that time a captain in the medical service of the German Air Force, and also held officer rank in the SS. He is believed now to be dead.

The origin of the idea is revealed in a letter which Rascher wrote to Himmler in May 1941 at which time Rascher was taking a course in aviation medicine at a German Air Force headquarters in Munich. According to the letter, this course included researches into high-altitude flying and

> "considerable regret was expressed at the fact that no tests with human material had yet been possible for us, as such experiments are very dangerous and nobody volunteers for them." (*1602–PS.*)

Rascher, in this letter, went on to ask Himmler to put human subjects at his disposal and baldly stated that the experiments might result in death to the subjects but that the tests theretofore made with monkeys had not been satisfactory.

Rascher's letter was answered by Himmler's adjutant, the defendant, Rudolf Brandt, who informed Rascher that—

> "* * * Prisoners will, of course, gladly be made available for the high-flight researches." (*1582–PS.*)

Subsequently Rascher wrote directly to Rudolf Brandt asking for permission to carry out the experiments at the Dachau concentration camp, and he mentioned that the German Air Force had provided "a

movable pressure chamber" in which the experiments might be made. Plans for carrying out the experiments were developed at a conference late in 1941, or early in 1942, attended by Dr. Rascher and by the defendants Weltz, Romberg, and Ruff, all of whom were members of the German Air Force Medical Service. The tests themselves were carried out in the spring and summer of 1942, using the pressure chamber which the German Air Force had provided. The victims were locked in the low-pressure chamber, which was an airtight ball-like compartment, and then the pressure in the chamber was altered to simulate the atmospheric conditions prevailing at extremely high altitudes. The pressure in the chamber could be varied with great rapidity, which permitted the defendants to duplicate the atmospheric conditions which an aviator might encounter in falling great distances through space without a parachute and without oxygen.

The reports, conclusions, and comments on these experiments, which were introduced here and carefully recorded, demonstrate complete disregard for human life and callousness to suffering and pain. These documents reveal at one and the same time the medical results of the experiments, and the degradation of the physicians who performed them. The first report by Rascher was made in April 1942, and contains a description of the effect of the low-pressure chamber on a 37-year-old Jew. (*1971–A–PS.*) I quote:

"The third experiment of this type took such an extraordinary course that I called an SS physician of the camp as witness, since I had worked on these experiments all by myself. It was a continuous experiment without oxygen at a height of 12 kilometers conducted on a 37-year-old Jew in good general condition. Breathing continued up to 30 minutes. After 4 minutes the experimental subject began to perspire and wiggle his head, after 5 minutes cramps occurred, between 6 and 10 minutes breathing increased in speed and the experimental subject became unconscious; from 11 to 30 minutes breathing slowed down to three breaths per minute, finally stopping altogether.

"Severest cyanosis developed in between and foam appeared at the mouth.

"At 5 minute intervals electrocardiograms from three leads were written. After breathing had stopped Ekg (electrocardiogram) was continuously written until the action of the heart had come to a complete standstill. About ½ hour after breathing had stopped, dissection was started."

Rascher's report also contains the following record of the "autopsy":

"When the cavity of the chest was opened the pericardium was filled tightly (heart tamponade). Upon opening of the pericardium, 80 cc. of clear yellowish liquid gushed forth. The moment the tamponade had stopped, the right auricle of the heart began to

beat heavily, at first at the rate of 60 actions per minute, then progressively slower. Twenty minutes after the pericardium had been opened, the right auricle was opened by puncturing it. For about 15 minutes, a thin stream of blood spurted forth. Thereafter, clogging of the puncture wound in the auricle by coagulation of the blood and renewed acceleration of the action of the right auricle occurred.

"One hour after breathing had stopped, the spinal marrow was completely severed and the brain removed. Thereupon, the action of the auricle of the heart stopped for 40 seconds. It then renewed its action, coming to a complete standstill 8 minutes later. A heavy subarachnoid oedema was found in the brain. In the veins and arteries of the brain, a considerable quantity of air was discovered. Furthermore, the blood vessels in the heart and liver were enormously obstructed by embolism." (*1971–A–PS.*)

After seeing this report Himmler ironically ordered that if a subject should be brought back to life after enduring such an experiment, he should be "pardoned" to life imprisonment in a concentration camp. Rascher's reply to this letter, dated 20 October 1942, reveals that up to the time the victims of these experiments had all been Poles and Russians, that some of them had been condemned to death, and Rascher inquired whether Himmler's benign mercy extended to Poles and Russians. (*1971–D–PS.*) A teleptyped reply from the defendant, Rudolf Brandt, confirmed Rascher's belief that Poles and Russians were beyond the pale and should be given no amnesty of any kind. (*1971–E–PS.*)

The utter brutality of the crimes committed in conducting this series of experiments is reflected in all the documents. A report written in May 1942 reflects that certain of these tests were carried out on persons described therein as "Jewish professional criminals." In fact, these Jews had been condemned for what the Nazis called "Rassenschande," which literally means "racial shame." The crime consisted of marriage or intercourse between Aryans and non-Aryans. The murder and torture of these unfortunate Jews is eloquently reflected in the following report:

"Some of the experimental subjects died during a continued high-altitude experiment; for instance, after one-half hour at a height of 12 kilometers. After the skull had been opened under water, an ample amount of air embolism was found in the brain vessels and, in part, free air in the brain ventricles.

"In order to find out whether the severe psychic and physical effects, as mentioned under No. 3, are due to the formation of embolism, the following was done: After relative recuperation from such a parachute descending test had taken place, however before regaining consciousness, some experimental subjects were kept under

water until they died. When the skull and cavities of the breast and of the abdomen were opened under water, an enormous amount of air embolism was found in the vessels of the brain, the coronary vessels, and the vessels of the liver and the intestines." (*NO–220.*)

The victims who did not die in the course of such experiments, surely wished that they had. A long report written in July 1942 by Rascher, and by the defendants Ruff and Romberg, describes an experiment on a former delicatessen clerk, who was given an oxygen mask and raised in the chamber to an atmospheric elevation of over 47,000 feet, at which point the mask was removed and a parachute descent was simulated. The report describes the victim's reactions—"spasmodic convulsions," "agonal convulsive breathing," "clonic convulsions, groaning," "yells aloud," "convulses arms and legs," "grimaces, bites his tongue," "does not respond to speech," "gives the impression of someone who is completely out of his mind." (*NO–402.*)

The evidence which we will produce will establish that the defendants Ruff and Romberg personally participated with Rascher in experiments resulting in death and torture; that the defendant Sievers watched the experiments for an entire day and made an oral report to Himmler on his observations; that the defendant Rudolf Brandt was the agent of Himmler in providing the human subjects for these experiments and in making many other facilities available to Rascher and rendering him general assistance; and that the defendant Weltz, in his official capacity, repeatedly insisted on supervision over and full responsibility and credit for the experiments. The higher authorities of both the German Air Force and the SS were fully informed concerning what was going on. Extensive correspondence will be introduced, for example, concerning the availability of the low-pressure chamber which the German Air Force furnished at Dachau, and concerning the availability of Rascher, who was an officer in the Air Force Medical Service, to conduct the experiments. Knowledge of, participation in, and responsibility for these atrocious crimes on the part of the defendants here charged will be clearly shown by the evidence.

B. Freezing Experiments

The deep interest of the German Air Force in capitalizing on the availability of inmates of concentration camps for experimental purposes is even more apparent in the case of the freezing experiments. These, too, were conducted at Dachau. They began immediately after the high-altitude experiments were completed and they continued until the spring of 1943. Here again, the defendant Weltz was directly in charge of the experiments, with Rascher as his assistant, as is shown in a letter written in May 1942 by Field Marshal

Erhard Milch, the Inspector General of the German Air Force, to SS Obergruppenfuehrer Wolff, one of Heinrich Himmler's principal subordinates, and this letter specifically requested that the freezing experiments be carried out at Dachau under Weltz's supervision. (*343–A–PS.*)

The purpose of these experiments was to determine the most effective way of rewarming German aviators who were forced to parachute into the North Sea. The evidence will show that in the course of these experiments, the victims were forced to remain outdoors without clothing in freezing weather from 9 to 14 hours. In other cases, they were forced to remain in a tank of iced water for 3 hours at a time. The water experiments are described in a report by Rascher written in August 1942. (*1618–PS.*) I quote:

"Electrical measurements gave low temperature readings of 26.4° in the stomach and 26.5° in the rectum. Fatalities occurred only when the brain stem and the back of the head were also chilled. Autopsies of such fatal cases always revealed large amounts of free blood, up to ½ liter, in the cranial cavity. The heart invariably showed extreme dilation of the right chamber. As soon as the temperature in those experiments reached 28°, the experimental subjects died invariably, despite all attempts at resuscitation."

Other documents set forth that from time to time the temperature of the water would be lowered by 10° Centigrade and a quart of blood would be taken from an artery in the subject's throat for analysis. The organs of the victims who died were extracted and sent to the Pathological Institute at Munich.

Rewarming of the subjects was attempted by various means, most commonly and successfully in a very hot bath. In September, Himmler personally ordered that rewarming by the warmth of human bodies also be attempted, and the inhuman villains who conducted these experiments promptly produced four gypsy women from the Ravensbrueck concentration camp. When the women had arrived, rewarming was attempted by placing the chilled victim between two naked women.

A voluminous report on the freezing experiments conducted in tanks of ice water, written in October 1942, contains the following (*NO–428*):

"If the experimental subject were placed in the water under narcosis, one observed a certain arousing effect. The subject began to groan and made some defensive movements. In a few cases, a state of excitation developed. This was especially severe in the cooling of the head and neck. But never was a complete cessation of the narcosis observed. The defensive movements ceased after about 5 minutes. There followed a progressive rigor, which developed especially strongly in the arm musculature; the arms were strongly flexed and pressed to the body. The rigor increased with

the continuation of the cooling, now and then interrupted by tonic-clonic twitching. With still more marked sinking of the body temperature, it suddenly ceased. These cases ended fatally, without any successful results from resuscitation efforts.

* * * * * * *

"Experiments without narcosis showed no essential differences in the course of cooling. Upon entry into the water, a severe cold shuddering appeared. The cooling of the neck and back of the head was felt as especially painful, but already after 5 to 10 minutes, a significant weakening of the pain sensation was observable. Rigor developed after this time in the same manner as under narcosis, likewise the tonic-clonic twitchings. At this point, speech became difficult because the rigor also affected the speech musculature.

"Simultaneously with the rigor, a severe difficulty in breathing set in with or without narcosis. It was reported that, so to speak, an iron ring was placed about the chest. Objectively, already at the beginning of this breathing difficulty, a marked dilatation of the nostrils occurred. The expiration was prolonged and visibly difficult. This difficulty passed over into a rattling and snoring breathing. * * *" [Emphasis not shown.]

During the winter of 1942 and 1943, experiments with "dry" cold were conducted. And Rascher reported on these in another letter to Himmler (*1616–PS*):

"Up to now, I have cooled off about 30 people stripped in the open air during nine to fourteen hours at 27° to 29°. After a time, corresponding to a trip of 1 hour, I put these subjects in a hot bath. Up to now, every single patient was completely warmed up within 1 hour at most, although some of them had their hands and feet frozen white."

The responsibility among the defendants for the freezing experiments is substantially the same as for the high-altitude tests. The results were, if anything, ever more widely known in German medical circles. In October 1942, a medical conference took place here in Nuernberg at the Deutscher Hof Hotel, at which one of the authors of the report from which I have just quoted spoke on the subject "Prevention and Treatment of Freezing", and the defendant Weltz spoke on the subject "Warming up after Freezing to the Danger Point." Numerous documents which we will introduce show the widespread responsibility among the defendants, and in the highest quarters of the German Air Force, for these sickening crimes.

C. Malaria Experiments

Another series of experiments carried out at the Dachau concentration camp concerned immunization for and treatment of malaria.

Over 1,200 inmates of practically every nationality were experimented upon. Many persons who participated in these experiments have already been tried before a general military court held at Dachau, and the findings of that court will be laid before this Tribunal. The malaria experiments were carried out under the general supervision of a Dr. Schilling, with whom the defendant Sievers and others in the box collaborated. The evidence will show that healthy persons were infected by mosquitoes or by injections from the glands of mosquitoes. Catholic priests were among the subjects. The defendant Gebhardt kept Himmler informed of the progress of these experiments. Rose furnished Schilling with fly eggs for them, and others of the defendants participated in various ways which the evidence will demonstrate.

After the victims had been infected, they were variously treated with quinine, neosalvarsan, pyramidon, antipyrin, and several combinations of these drugs. Many deaths occurred from excessive doses of neosalvarsan and pyramidon. According to the findings of the Dachau court, malaria was the direct cause of 30 deaths and 300 to 400 others died as the result of subsequent complications.

D. Mustard Gas Experiments

The experiments concerning mustard gas were conducted at Sachsenhausen, Natzweiler, and other concentration camps and extended over the entire period of the war. Wounds were deliberately inflicted on the victims, and the wounds were then infected with mustard gas. Other subjects were forced to inhale the gas, or to take it internally in liquid form, and still others were injected with the gas. A report on these experiments written at the end of 1939 described certain cases in which wounds were inflicted on both arms of the human guinea pigs and then infected, and the report states: "The arms in most of the cases are badly swollen and pains are enormous."

The alleged purpose of these experiments was to discover an effective treatment for the burns caused by mustard gas. In 1944 the experiments were coordinated with a general program for research into gas warfare. A decree issued by Hitler in March 1944 ordered the defendant Karl Brandt to push medical research in connection with gas warfare. The defendant Rudolf Brandt sent copies of this decree to the defendant Sievers, to Grawitz, and others, and transmitted Hitler's request that they confer soon with the defendant Karl Brandt "on account of the urgency of the order given him by the Fuehrer." Subsequently, Sievers, who was thoroughly familiar with the mustard gas experiments being carried on in the concentration camps, reported the details of these experiments to the defendant Karl Brandt.

E. and F. Ravensbrueck Experiments Concerning Sulfanilamide and Other Drugs; Bone, Muscle, and Nerve Regeneration and Bone Transplantation

The experiments conducted principally on the female inmates of Ravensbrueck concentration camp were perhaps the most barbaric of all. These concerned bone, muscle, and nerve regeneration and bone transplantation, and experiments with sulfanilamide and other drugs. They were carried out by the defendants Fischer and Oberheuser under the direction of the defendant Gebhardt.

In one set of experiments, incisions were made on the legs of several of the camp inmates for the purpose of simulating battle-caused infections. A bacterial culture, or fragments of wood shavings, or tiny pieces of glass were forced into the wound. After several days, the wounds were treated with sulfanilamide. Grawitz, the head of the SS Medical Service, visited Ravensbrueck and received a report on these experiments directly from the defendant Fischer. Grawitz thereupon directed that the wounds inflicted on the subjects should be even more severe so that conditions similar to those prevailing at the front lines would be more completely simulated.

Bullet wounds were simulated on the subjects by tying off the blood vessels at both ends of the incision. A gangrene-producing culture was then placed in the wounds. Severe infection resulted within 24 hours. Operations were then performed on the infected areas and the wounds were treated with sulfanilamide. In each of the many sulfanilamide experiments, some of the subjects were wounded and infected but were not given sulfanilamide, so as to compare their reactions with those who received treatment.

Bone transplantation from one person to another and the regeneration of nerves, muscles, and bones were also tried out on the women at Ravensbrueck. The defendant Gebhardt personally ordered that bone transplantation experiments be carried out, and in one case the scapula of an inmate at Ravensbrueck was removed and taken to Hohenlychen Hospital and there transplanted. We will show that the defendants did not even have any substantial scientific objective. These experiments were senseless, sadistic, and utterly savage.

The defendant Oberheuser's duties at Ravensbrueck in connection with the experiments were to select young and healthy inmates for the experiments, to be present at all of the surgical operations, and to give the experimental subjects post-operative care. We will show that this care consisted chiefly of utter neglect of nursing requirements, and cruel and abusive treatment of the miserable victims.

Other experiments in this category were conducted at Dachau to discover a method of bringing about coagulation of the blood. Concentration camp inmates were actually fired upon, or were injured

in some other fashion in order to cause something similar to a battlefield wound. These wounds were then treated with a drug known as polygal in order to test its capacity to coagulate the blood. Several inmates were killed. Sulfanilamide was also administered to some and withheld from other inmates who had been infected with the pus from a phlegmon-diseased person. Blood poisoning generally ensued. After infection, the victims were left untreated for 3 or 4 days, after which various drugs were administered experimentally or experimental surgical operations were performed. Polish Catholic priests were used for these tests. Many died and others became invalids.

As a result of all of these senseless and barbaric experiments, the defendants are responsible for manifold murders and untold cruelty and torture.

G. Sea-Water Experiments

For the sea-water experiments we return to Dachau. They were conducted in 1944 at the behest of the German Air Force and the German Navy in order to develop a method of rendering sea water drinkable. Meetings to discuss this problem were held in May 1944, attended by representatives of the Luftwaffe, the Navy, and I. G. Farben. The defendants Becker-Freyseng and Schaefer were among the participants. It was agreed to conduct a series of experiments in which the subjects, fed only with shipwreck emergency rations, would be divided into four groups. One group would receive no water at all; the second would drink ordinary sea water; the third would drink sea water processed by the so-called "Berka" method, which concealed the taste but did not alter the saline content; the fourth would drink sea water treated so as to remove the salt.

Since it was expected that the subjects would die, or at least suffer severe impairment of health, it was decided at the meeting in May 1944 that only persons furnished by Himmler could be used. Thereafter in June 1944 the defendant Schroeder set the program in motion by writing to Himmler, and I quote from his letter (*NO–185*) :

> "Earlier you made it possible for the Luftwaffe to settle urgent medical matters through experiments on human beings. Today I again stand before a decision which, after numerous experiments on animals and also on voluntary human subjects, demands final solution: The Luftwaffe has simultaneously developed two methods for making sea water drinkable. The one method, developed by a medical officer, removes the salt from the sea water and transforms it into real drinking water; the second method, suggested by an engineer, only removes the unpleasant taste from the sea water. The latter method, in contrast to the first, requires no critical raw material. From the medical point of view this method must be

viewed critically, as the administration of concentrated salt solutions can produce severe symptoms of poisoning.

"As the experiments on human beings could thus far only be carried out for a period of 4 days, and as practical demands require a remedy for those who are in distress at sea up to 12 days, appropriate experiments are necessary.

"Required are 40 healthy test subjects, who must be available for 4 whole weeks. As it is known from previous experiments that necessary laboratories exist in the Dachau concentration camp, this camp would be very suitable.

* * * * * * *

"Due to the enormous importance which a solution of this question has for soldiers of the Luftwaffe and Navy who have become shipwrecked, I would be greatly obliged to you, my dear Reich Minister, if you would decide to comply with my request."

Himmler passed this letter to Grawitz who consulted Gebhardt and other SS officials. A typical and nauseating Nazi discussion of racial questions ensued. One SS man suggested using quarantined prisoners and Jews; another suggested gypsies. Grawitz doubted that experiments on gypsies would yield results which were scientifically applicable to Germans. Himmler finally directed that gypsies be used with three others as a check.

The tests were actually begun in July 1944. The defendant Beiglboeck supervised the experiments, in the course of which the gypsy subjects underwent terrible suffering, became delirious or developed convulsions, and some died.

H. Epidemic Jaundice

The epidemic jaundice experiments, which took place at Sachsenhausen and Natzweiler concentration camps, were instigated by the defendant Karl Brandt. A letter written in 1943 by Grawitz stresses the enormous military importance of developing an inoculation against epidemic jaundice, which had spread extensively in the Waffen SS and the German Army, particularly in southern Russia. In some companies, up to 60 percent casualties from epidemic jaundice had occurred. Grawitz further informed Himmler that, and I quote:

"The General Commissioner of the Fuehrer, SS Brigadefuehrer Professor Dr. Brandt, has approached me with the request to help him obtain prisoners to be used in connection with his research on the causes of Epidemic Jaundice which has been furthered to a large degree by his efforts. * * * In order to enlarge our knowledge, so far based only on inoculation of animals with germs taken from human beings, it would not be necessary to reverse the

procedure and inoculate human beings with germs cultivated in animals. Casualties (Todesfaelle) must be anticipated."

Grawitz also had been doing research on this problem with the assistance of a Dr. Dohmen, a medical officer attached to the Army Medical Inspectorate. Himmler made the following reply to the Grawitz letter (*NO–011*):

"I approve that eight criminals condemned in Auschwitz (eight Jews of the Polish Resistance Movement condemned to death) should be used for these experiments."

Other evidence will indicate that the scope of these experiments was subsequently enlarged and that murder, torture, and death resulted from them.

I. Sterilization Experiments

In the sterilization experiments conducted by the defendants at Auschwitz, Ravensbrueck, and other concentration camps, the destructive nature of the Nazi medical program comes out most forcibly. The Nazis were searching for methods of extermination, both by murder and sterilization, of large population groups, by the most scientific and least conspicuous means. They were developing a new branch of medical science which would give them the scientific tools for the planning and practice of genocide. The primary purpose was to discover an inexpensive, unobtrusive, and rapid method of sterilization which could be used to wipe out Russians, Poles, Jews, and other people. Surgical sterilization was thought to be too slow and expensive to be used on a mass scale. A method to bring about an unnoticed sterilization was thought desirable.

Medicinal sterilizations were therefore carried out. A Dr. Madaus had stated that caladium seguinum, a drug obtained from a North American plant, if taken orally or by injection, would bring about sterilization. In 1941 the defendant Pokorny called this to Himmler's attention, and suggested that it should be developed and used against Russian prisoners of war. I quote one paragraph from Pokorny's letter written at that time (*NO–035*):

"If, on the basis of this research, it were possible to produce a drug which after a relatively short time, effects an imperceptible sterilization on human beings, then we would have a powerful new weapon at our disposal. The thought alone that the 3 million Bolsheviks, who are at present German prisoners, could be sterilized so that they could be used as laborers but be prevented from reproduction, opens the most far-reaching perspectives."

As a result of Pokorny's suggestion, experiments were conducted on concentration camp inmates to test the effectiveness of the drug. At the same time efforts were made to grow the plant on a large scale in hothouses.

At the Auschwitz concentration camp sterilization experiments were also conducted on a large scale by a Dr. Karl Clauberg, who had developed a method of sterilizing women, based on the injection of an irritating solution. Several thousand Jewesses and gypsies were sterilized at Auschwitz by this method.

Conversely, surgical operations were performed on sexually abnormal inmates at Buchenwald in order to determine whether their virility could be increased by the transplantation of glands. Out of 14 subjects of these experiments, at least 2 died.

The defendant Gebhardt also personally conducted sterilizations at Ravensbrueck by surgical operation. The defendant Viktor Brack, in March 1941, submitted to Himmler a report on the progress and state of X–ray sterilization experiments. Brack explained that it had been determined that sterilization with powerful X-rays could be accomplished and that castration would then result. The danger of this X–ray method lay in the fact that other parts of the body, if they were not protected with lead, were also seriously affected. In order to prevent the victims from realizing that they were being castrated, Brack made the following fantastic suggestion in his letter written in 1941 to Himmler, from which I quote (*NO–203*) :

> "One way to carry out these experiments in practice would be to have those people who are to be treated line up before a counter. There they would be questioned and a form would be given them to be filled out, the whole process taking 2 or 3 minutes. The official attendant who sits behind the counter can operate the apparatus in such a manner that he works a switch which will start both tubes together (as the rays have to come from both sides). With one such installation with two tubes about 150 to 200 persons could be sterilized daily, while 20 installations would take care of 3,000 to 4,000 persons daily. In my opinion the number of daily deportations will not exceed this figure."

In this same report the defendant Brack related that, and I quote (*NO–203*) :

> " * * * the latest X–ray technique and research make it easily possible to carry out mass sterilization by means of X–rays. However, it appears to be impossible to take these measures without having those who were so treated finding out sooner or later that they definitely had been either sterilized or had been castrated by X–rays."

Another letter from Brack to Himmler, in June 1942, laid the basis for X–ray experiments which were subsequently carried out at Auschwitz. The second paragraph of this letter forms a fitting conclusion to this account of Nazi depravity, and I quote (*NO–205*) :

> "Among 10 millions of Jews in Europe there are, I figure, at least 2 to 3 millions of men and women who are fit enough to work.

Considering the extraordinary difficulties the labor problem presents us with, I hold the view that these 2 to 3 millions should be specially selected and preserved. This can, however, only be done if at the same time they are rendered incapable to propagate. About a year ago I reported to you that agents of mine have completed the experiments necessary for this purpose. I would like to recall these facts once more. Sterilization, as normally performed on persons with hereditary diseases, is here out of the question because it takes too long and is too expensive. Castration by X–rays, however, is not only relatively cheap but can also be performed on many thousands in the shortest time. I think that at this time it is already irrelevant whether the people in question become aware of having been castrated after some weeks or months, once they feel the effects."

J. Typhus (Fleckfieber) and Related Experiments

From December 1941, until near the end of the war, a large program of medical experimentation was carried out upon concentration camp inmates at Buchenwald and Natzweiler to investigate the value of various vaccines. This research involved a variety of diseases—typhus, yellow fever, smallpox, paratyphoid A and B, cholera, and diphtheria. A dozen or more of the defendants were involved in these experiments which were characterized by the most cynical disregard of human life. Hundreds of persons died. The experiments concerning typhus—known in Germany as Fleckfieber or "spot fever", but is not to be confused with American spotted fever—were particularly appalling.

The typhus experiments at Natzweiler were conducted by Dr. Eugen Haagen, an officer in the Air Force Medical Service and a professor at the University of Strasbourg. In the fall of 1943, through the defendant Sievers, Haagen obtained 100 concentration camp prisoners for experiments with typhus vaccines. Two hundred more prisoners were furnished in the summer of 1944. These experiments caused many fatalities among the prisoners.

The general pattern of these typhus experiments was as follows. A group of concentration camp inmates, selected from the healthier ones who had some resistance to disease, were injected with an anti-typhus vaccine, the efficacy of which was to be tested. Thereafter, all the persons in the group would be infected with typhus. At the same time, other inmates who had not been vaccinated were also infected for purposes of comparison—these unvaccinated victims were called the "control" group. But perhaps the most wicked and murderous circumstance in this whole case is that still other inmates were deliberately infected with typhus with the sole purpose of keeping

the typhus virus alive and generally available in the bloodstream of the inmates.

The typhus murders at Buchenwald were carried out in 1942 and 1943 under the direction of the defendants Genzken and Mrugowsky. Requests for the human guinea pigs were turned over to, and filled by, the defendant Hoven. The bulk of the actual work was done by an infamous physician known as Dr. Ding, who committed suicide after the war. But Dr. Ding's professional diary has survived.

The first entry in Ding's diary, for 29 December 1941, reveals that here again the impetus for these murderous researches came from the Wehrmacht. This entry describes a conference sponsored by the defendant Handloser and Dr. Conti, respective heads of the military and civilian medical services of the Reich, which was also attended by the defendant Mrugowsky. Typhus had been making serious inroads on the German troops fighting in Russia. The account of this conference relates that, and I quote (*NO–265*) :

"Since tests on animals are not of sufficient value, tests on human beings must be carried out."

Other entries in the Ding diary quoted below are typical of those made over a period of 3 years, and give some idea of the mortality among the victims. (*NO–265.*)

"*10 Jan 42: Preliminary test B:* Preliminary test to establish a sure means of infection: Much as in smallpox vaccination, 5 persons were infected with virus through 2 superficial and 2 deeper cuts in the upper arm. All of the humans used for this test fell ill with true typhus. Incubation period up to 6 days.

"*20 Feb 42:* Chart of the case history of the preliminary tests to establish a sure means of infection were sent to Berlin. One death out of five sick.

"*17 Mar 42:* Visit of Prof. Gildemeister and Prof. Rose (department head for tropical medicine of the Robert Koch Institute) at the experimental station. All persons experimented on fell sick with typhus, except two, who, the fact was established later, already had been sick with typhus during an epidemic at the police prison in Berlin.

"*9 Jan 43:* By order of the surgeon general of the Waffen SS, SS Gruppenfuehrer and Major General of the Waffen SS, Dr. Genzken, the hitherto existing typhus research station at the concentration camp Buchenwald becomes the 'Department for Typhus and Virus Research'. The head of the department will be SS Sturmbannfuehrer Dr. Ding. During his absence, the station medical officer of the Waffen SS, Weimar, SS Hauptsturmfuehrer Hoven will supervise the production of vaccines.

"*13 and 14 Apr 43:* Unit of SS Sturmbannfeuhrer Dr. Ding ordered to I. G. Farbenindustrie A. G., Hoechst. Conference with

Prof. Lautenschlaeger, Dr. Weber and Dr. Fussgaenger about the experimental series 'Acridine Granulate and Rutenol' in the concentration camp Buchenwald. Visit to Geheimrat Otto and Prof. Prigge in the institute for experimental therapeutics in Frankfurt-on-Main.

"*24 Apr 1943:* Therapeutic experiments Acridine-Granulate (A–GR2) and Rutenol (R–2) to carry out the therapeutic experiments Acridine Granulate and Rutenol, 30 persons (15 each) and 9 persons for control were infected by intravenous injection of 2 cc. each of fresh blood of a typhus sick person. All experimental persons got very serious typhus.

"*1 Jun 1943:* Charts of case history completed. The experimental series was concluded with 21 deaths; of these, 8 were in Buchenwald, 8 with Rutenol and 5 control.

"*7 Sep 1943:* Chart and case history completed. The experimental series was concluded with 53 deaths.

"*8 Mar–18 Mar 1944:* It is suggested by Colonel of the air corps, Prof. Rose, the vaccine 'Kopenhagen', produced from mouse liver by the National Serum Institute in Kopenhagen, be tested for its compatibility on humans. Twenty persons were vaccinated for immunization by intramuscular injection. * * * Ten persons were contemplated for control and comparison.

"*16 Apr 1944:* The remaining experimental persons were infected on 16 April by subcutaneous injection of 1/20 cc. typhus sick fresh blood. The following feel sick: 17 persons immunized: 9 medium, 8 seriously. Nine persons from the control: 2 medium, 7 seriously.

"*13 Jun 1944:* Chart and case history completed and sent to Berlin. Six deaths (3 'Kopenhagen') (3 control).

"*4 Nov 1944:* Chart and case history completed. Twenty-four deaths."

Copies of each of Dr. Ding's official reports went to the defendants Mrugowsky and Poppendick as well as to the I. G. Farben laboratories at Hoechst. Nowhere will the evidence in this case reveal a more wicked and murderous course of conduct by men who claimed to practice the healing art than in the entries of Dr. Ding's diary relating to the typhus experiments.

K. Poison Experiments

Here again the defendants were studying how to kill, and the scene is Buchenwald. Poisons were administered to Russian prisoners of war in their food, and German doctors stood behind a curtain to watch the reactions of the prisoners. Some of the Russians died immediately, and the survivors were killed in order to permit autopsies.

The defendant Mrugowsky, in a letter written in September 1944, has provided us with a record of another experiment in which the victims were shot with poisoned bullets, and I quote (*NO–201*) :

"In the presence of SS Sturmbannfuehrer Dr. Ding, Dr. Widmann and the undersigned, experiments with aconitin nitrate projectiles were conducted on 11 September 1944 on 5 persons who had been condemned to death. The projectiles in question were of a 7.65 mm. caliber, filled with crystallized poison. The experimental subjects, in a lying position, were each shot in the upper part of the left thigh. The thighs of two of them were cleanly shot through. Afterwards, no effect of the poison was to be observed. These two experimental subjects were therefore exempted.

* * * * * * *

"During the first hour of the experiment the pupils did not show any changes. After 78 minutes the pupils of all three showed a medium dilation, together with a retarded light reaction. Simultaneously, maximum respiration with heavy breathing inhalations set in. This subsided after a few minutes. The pupils contracted again and their reaction improved. After 65 minutes the patellar and achilles tendon reflexes of the poisoned subjects were negative. The abdominal reflexes of two of them were also negative. After approximately 90 minutes, one of the subjects again started breathing heavily; this was accompanied by an increasing motor unrest. Then the heavy breathing changed into a flat, accelerated respiration, accompanied by extreme nausea. One of the poisoned persons tried in vain to vomit. To do so he introduced four fingers of his hand up to the knuckles into his throat, but nevertheless could not vomit. His face was flushed.

"The other two experimental subjects had already early shown a pale face. The other symptoms were the same. The motor unrest increased so much that the persons flung themselves up and then down, rolled their eyes and made meaningless motions with their hands and arms. Finally the agitation subsided, the pupils dilated to the maximum, and the condemned lay motionless. * * * Death occurred 121, 123, and 129 minutes after entry of the projectile."

L. Incendiary Bomb Experiments

These experiments were likewise carried out at Buchenwald, and the Ding diary gives us the facts. In November 1943 five persons were deliberately burned with phosphorous material taken from an English incendiary bomb. The victims were permanently and seriously injured.

M. Jewish Skeleton Collection

I come now to charges stated in paragraphs 7 and 11 of the indictment. These are perhaps the most utterly repulsive charges in the entire indictment. They concern the defendants Rudolf Brandt and Sievers. Sievers and his associates in the Ahnenerbe Society were completely obsessed by all the vicious and malignant Nazi racial theories. They conceived the notion of applying these nauseous theories in the field of anthropology. What ensued was murderous folly.

In February 1942, Sievers submitted to Himmler, through Rudolf Brandt, a report from which the following is an extract (*NO–085*):

"We have a nearly complete collection of skulls of all races and peoples at our disposal. Only very few specimens of skulls of the Jewish race, however, are available with the result that it is impossible to arrive at precise conclusions from examining them. The war in the East now presents us with the opportunity to overcome this deficiency. By procuring the skulls of the Jewish-Bolshevik Commissars, who represent the prototype of the repulsive, but characteristic subhuman, we have the chance now to obtain a palpable, scientific document.

"The best, practical method for obtaining and collecting this skull material could be handled by directing the Wehrmacht to turn over alive all captured Jewish-Bolshevik Commissars to the Field Police. They in turn are to be given special directives to inform a certain office at regular intervals of the number and place of detention of these captured Jews and to give them special close attention and care until a special delegate arrives. This special delegate, who will be in charge of securing the 'material' has the job of taking a series of previously established photographs, anthropological measurements, and in addition has to determine, as far as possible, the background, date of birth, and other personal data of the prisoner. Following the subsequently induced death of the Jew, whose head should not be damaged, the delegate will separate the head from the body and will forward it to its proper point of destination in a hermetically sealed tin can, especially produced for this purpose and filled with a conserving fluid.

"Having arrived at the laboratory, the comparison tests and anatomical research on the skull, as well as determination of the race membership of pathological features of the skull form, the form and size of the brain, etc., can proceed. The basis of these studies will be the photos, measurements, and other data supplied on the head, and finally the tests of the skull itself."

After extensive correspondence between Himmler and the defendants Sievers and Rudolf Brandt, it was decided to procure the skulls

from inmates of the Auschwitz concentration camp instead of at the front. The hideous program was actually carried out, as is shown by a letter from Sievers written in June 1943, which states in part (*NO–087*):

"I wish to inform you that our associate, Dr. Beger, who was in charge of the above special project, has interrupted his experiments in the concentration camp Auschwitz because of the existing danger of epidemics. Altogether 115 persons were worked on, 79 were Jews, 30 were Jewesses, 2 were Poles, and 4 were Asiatics. At the present time these prisoners are segregated by sex and are under quarantine in the two hospital buildings of Auschwitz."

After the death of these wretched Jews had been "induced" their corpses were sent to Strasbourg. A year elapsed, and the Allied armies were racing across France and were nearing Strasbourg where this monstrous exhibit of the culture of the master race reposed. Alarmed, Sievers sent a telegram to Rudolf Brandt in September 1944, from which I quote:

"According to the proposal of 9 February 1942, and your approval of 23 February 1942, Professor Dr. Hirt has assembled a skeleton collection which has never been in existence before. Because of the vast amount of scientific research that is connected with this project, the job of reducing the corpses to skeletons has not yet been completed. Since it might require some time to process 80 corpses, Hirt requested a decision pertaining to the treatment of the collection stored in the morgue of the Anatomy, in case Strasbourg should be endangered. The collection can be defleshed and rendered unrecognizable. This, however, would mean that the whole work had been done for nothing—at least in part—and that this singular collection would be lost to science, since it would be impossible to make plaster casts afterwards. The skeleton collection, as such is inconspicuous. The flesh parts could be declared as having been left by the French at the time we took over the Anatomy and would be turned over for cremating. Please advise me which of the following three proposals is to be carried out:

(1) The collection as a whole is to be preserved.

(2) The collection is to be dissolved in part.

(3) The collection is to be completely dissolved."

The final chapter of this barbaric enterprise is found in a note in Himmler's files addressed to Rudolf Brandt stating that:

"During his visit at the Operational Headquarters on 21 November 1944, Sievers told me that the collection in Strasbourg had been completely dissolved in conformance with the directive given him at the time. He is of the opinion that this arrangement is for the best in view of the whole situation."

These men, however, reckoned without the hand of fate. The bodies of these unfortunate people were not completely disposed of, and this Tribunal will hear the testimony of witnesses and see pictorial exhibits depicting the charnel house which was the Anatomy Institute of the Reich University of Strasbourg.

I have now completed the sketch of some of the foul crimes which these defendants committed in the name of research. The horrible record of their degradation needs no underlining. But German medical science was in past years honored throughout the world, and many of the most illustrious names in medical research are German. How did these things come to pass? I will outline briefly the historical evidence which we will offer and which, I believe, will show that these crimes were the logical and inevitable outcome of the prostitution of German medicine under the Nazis.

GERMAN MEDICAL ORGANIZATION
Before 1933

Two years after the reconstitution of the German Reich, in 1871, the German Medical Association (Deutscher Aerztevereinsbund) was created, which tied together the older local medical associations. This society existed until it was abolished by the Nazi Government. Its structure was democratic, and its interests included problems of hygiene and public health, and to an increasing extent, socio-medical problems especially in the field of sickness and disability insurance.

Bismarck's legislation of 1881 established compulsory sickness insurance for workmen. In the course of the ensuing years, the vast bulk of the workmen were insured, and consequently most of the ordinary physician's patients came to be insured patients. There were lists of physicians authorized to treat insured patients, and it was a matter of vital moment to every practicing physician to be listed. To protect their interest with respect to listing, fees, and other such problems, the German doctors founded a voluntary association for the defense of their economic interests known as the Hartmann Bund.

Questions of professional ethics, medical malpractice, etc., were handled in Germany in two distinct sets of medical boards or "Courts." An entirely unofficial and voluntary system was established by the German Medical Association. The other, which was endowed with semiofficial status, was called the Reich Chamber of Physicians. These chambers were elected by vote of the members and were supported by an assessment.

In addition to these organizations, there existed in Germany purely professional societies of doctors, where papers concerning scientific and practical problems were read and discussed, and which established connections with similar societies abroad. The German Gov-

ernment agencies which supervised the certification and licensing of physicians as well as their professional activities were the Ministry of Education and the Reich Health Office (Reichsgesundheitsamt) in the Ministry of the Interior. The latter supervised medical practice and licensing through the channels of the Ministries of the Interior of the various German states, although licensing was a federal function rather than a state function.

Medical education and training were rather standardized but good. The students spent 5 or 6 years at one of several of the medical universities; they took a final examination covering their clinical studies and then spent a year at an authorized hospital under supervision. Thereafter the internes were licensed and permitted to establish a practice. After two more years they became eligible to treat insurance patients, and, after submitting a thesis, could obtain the degree of doctor from a university.

Immediate Impact of Nazism on German Medicine

In the years immediately preceding the Third Reich, physicians' organizations devoted to Party politics sprang up. One of these was the National Socialist Physicians' Society, founded in 1929, in which Conti played a leading role. There was a rival association of Social Democratic Physicians, and a Socialist Society of Physicians. These societies proposed candidates for election to the Physicians' Chambers, and thus the National Socialist Physicians' Society and the Socialist associations came to compete with each other.

The notorious "boycott day" in Berlin, 1 April 1933, was a day of disgrace for German medicine. Members of the National Socialist Physicians' Society, who knew the membership lists of the Socialist societies and the lists of Jewish physicians, broke into the apartments of their Socialist and Jewish colleagues in the early morning hours, pulled them out of their beds, beat them and brought them to the exhibition area near the Berlin Lehrter Station. There, all of them, including men up to 70 years old, were forced to run around the garden, as in a hippodrome, and they were shot at with pistols or beaten with sticks. There they had to stay for several days without sufficient food, and then were handed over to the SA which carried part of them to the cellars at the Hedemannstrasse jail for further tortures.

Thereafter, the members of the Socialist Society of Physicians were barred from all insurance practice because of "Communist and subversive activities." In the subsequent listings of physicians issued by the insurance companies, the Jewish physicians were included in a separate list headed "Enemies of the State or Jews." Soon, the insurance companies, even private ones, were no longer permitted to pay fees to the Jewish physicians. Immediately thereafter, Jewish phy-

sicians were excluded from all professional and scientific societies. At first, those who were war veterans were nominally allowed to carry on their insurance practice, but patients who kept going to them were threatened and exposed to all kinds of unpleasantness on the part of the insurance officials.

After the war began, certification and licensing were withdrawn from all Jewish physicians and they were degraded to the status of lay therapists. These physicians were forced to wear a blue shield with the Star of David and had to add a middle name such as "Sarah" or "Israel." Their prescriptions likewise had to bear the Star of David, which exposed their patients to all kinds of unpleasantness when filling them at pharmacies, most of which had signs in their windows reading "Jews not wanted."

At first, the Aryan physicians were allowed to treat Jewish patients, but finally they were prohibited from doing so. Hospitals refused admission to Jewish patients, apart from a few courageous ones who admitted them in defiance of the law. Jews were admitted to mental institutions in separate wards, but usually were quickly transported elsewhere for extermination.

In the early summer of 1943, Conti instigated and directed a wholesale persecution of doctors who were either foreigners or persons of so-called mixed blood and those related by marriage to Jews. At first, they were removed from their practice and sent off to posts under inferior Party doctors. In 1944, Conti went a step further and forbade these physicians to practice. They were drafted into the Speer organization, in which they were employed solely at manual labor, their living conditions being little better than those of concentration camp inmates.

Prostitution of German Medicine Under National Socialism

The totalitarian structure of the Nazi State demanded fundamental subordination of all principles of medicine to National Socialist population policy and racial concepts. The most emphatic and repelling expression of those new aims and goals came from the Nazi Director of Public Health in the Ministry of the Interior, Dr. Arthur Guett, who took office in 1933. In a book published in 1935 entitled "The Structure of Public Health in the Third Reich," Guett announced that "the ill-conceived 'love of thy neighbor' has to disappear, especially in relation to inferior or asocial creatures. It is the supreme duty of a national state to grant life and livelihood only to the healthy and hereditarily sound portion of the people in order to secure the maintenance of a hereditarily sound and racially pure folk for all eternity. The life of an individual has meaning only in the light of that ultimate aim, that is, in the light of his meaning to his family and to his national state."

The entire public health policy of the Third Reich was put in line with this pronouncement of principles. The Minister of the Interior, Frick, reorganized the Health Department in his ministry in such a way that police, public health, welfare administration and social services were all coordinated in pursuit of these goals. The beginnings of this reorganization started already in the summer of 1933 and were substantially completed by 1936. All these activities were concentrated under Dr. Guett, who was thus enabled to coordinate the practical application of his policy with his theoretical principles. Even psychiatric social service agencies, which did thorough and well-organized work prior to 1933, were reduced to mere screening stations for hereditary and racial selection.

All government-employed physicians had to take a special new course lasting 18 months and had to be Party members. The German Red Cross was likewise drawn into the orbit of the Nazi Party and the SS, in view of Dr. Grawitz' appointment as president of the Red Cross. In 1945, after Grawitz' suicide, the defendant Gebhardt succeeded him.

The Third Reich also completely reorganized the professional medical societies. The German Medical Association and the Hartmann Bund were abolished. All German physicians were reorganized through an organization derived from the Reich Physicians' Chamber. This National Physicians' Chamber was placed directly under a medical "fuehrer" with the title of "Reichsaerztefuehrer." This position was also held by Conti. All doctors except those on active military duty were subordinate to him. His regional deputies were selected from the ranks of active National Socialists who terrorized the district branch societies. These deputies, who usually strutted about in SA or SS uniforms, were recruited mainly from the early members of the National Socialist Medical Association. It was their job to bring pressure on physicians to join and take part in various party organizations, such as the SA and SS.

A command performance, especially for younger physicians, was attendance at the so-called Fuehrer-School of German Physicians at Altrehse in Mecklenburg, which had been organized by the defendant Blome. There physicians were indoctrinated in the National Socialist point of view and way of life. The so-called comradely association and sports activity were merely window dressing for political spying. These courses finally became compulsory and had to be attended for several months annually.

The general respect, in which doctors were held, sunk in view of the decreasing level of general education and ability of the doctors. This was partly due to the constant occupation of the physicians' time with Party functions, especially the time-consuming Party formations and marches which made it impossible for young physicians to

develop scientific interests, so that recent graduates increasingly lost understanding and inclination for serious scientific study and long-range research.

Medical School and Medical Training Under the Nazis

On paper, medical training under the Nazis differed little from that of the pre-Nazi era. However, its fundamental spirit was ruinously distorted and medical standards suffered a dismal decline.

Medical students had to be "Aryan," and were required to belong to the National Socialist Students' League. The students' entire course of studies was constantly interrupted by the demands of the various party organizations to which they were forced to belong. A student whose knowledge of the racial theories and Nuernberg laws was not sufficient would fail his medical examinations.

Chairs in the universities were filled in many cases by Nazi so-called "professors" who might or might not have a scientific background. The true scientific societies under the Nazi regime became less and less active, and the Nazi professors in the universities devoted more time and interest to their SA or SS organizations than to the teaching of medicine. These Nazi professors would don their brown SA or black SS uniforms on all possible occasions, exchanging them proudly for their academic gowns at all academic celebrations and meetings.

The worst Nazi politicians, like Streicher, were given the free run of university clinics, such as at Erlangen. This submissiveness to lay politicians led to a general decline of respect for German academic medicine not only on the part of their own public and abroad but even on the part of the very same politicians before whom they kowtowed. This went so far that Streicher, when addressing a full faculty meeting at the University of Erlangen in 1936, called the assembled professors "complete idiots" to their faces. This was by no means an isolated occurrence.

Particularly deplorable was the degradation of psychiatry. Psychiatric university teaching declined to the level of a mere rehashing of the Nuernberg and sterilization laws. The modern techniques of psychotherapy had been abandoned, and treatment deteriorated to pep talks full of Nazi indoctrination admonitions and threats. No wonder that these methods backfired against the best interest of the German war effort which they were foolishly intended to serve. The lack of proper understanding and treatment of German soldiers who developed combat fatigue or neuroses, on the part of their own medical personnel, drove many of them to surrender to the enemy; efforts to rehabilitate them and restore them to duty were frustrated by the ruinous infusion of Nazi doctrine.

Summary

The general decline of German medical conduct and the poisoning of German medical ethics which the Nazis brought about laid the basis for the atrocious experiments of which the defendants are accused.

Many of these were experiments in name only; we will show them to have been senseless and clumsy and of no real value to medicine as a healing art. The Nazi medical world was flooded with preposterous and wicked notions about superior and inferior races and developed a perverted moral outlook in which cruelty to subjugated races and peoples was praiseworthy. Training in SA and SS formations was hardly calculated to develop physicians who could comprehend even the bare elements of the doctor-patient relationship. In this noxious garden of lies, the seeds of the experiments were planted. In the climate of Nazi Germany, they grew with horrible rapidity.

CRIMES OF MASS EXTERMINATION; MURDER OF POLISH NATIONALS

From the preaching of Guett and others sprang the notions which underlie the crimes to which we will now turn. Here we leave behind all semblance, however fictitious, of science and research. Under these teachings, life and livelihood became the birthright of no one. The weak and the physically handicapped are in the way and must be pushed aside. Inferior peoples are born to be exterminated by the Herrenvolk.

The charges in paragraphs 8 and 13 of the indictment concern the defendants Blome and Rudolf Brandt. The original impetus for this terrible mass murder came from a fiend named Greiser, who was the German Governor of the northwest portions of Poland, which had been absorbed into the Reich under the name "Wartheland." Early in 1942, Greiser was in the process of exterminating thousands of Jews in his territory, and he decided to turn his attention next to Poles infected with tuberculosis. I call the Tribunal's special attention to the German word "Sonderbehandlung." In the next document, as will be shown, it occurs frequently in Nazi correspondence and was used by them to mean extermination. In May 1942, Greiser wrote to Himmler as follows (*NO–246*) :

"The special treatment [Sonderbehandlung] of about 100,000 Jews in the territory of my district approved by you in agreement with the Chief of the Reich Security Main Office, SS Obergruppenfuehrer Heydrich, can be completed within the next 2 to 3 months. I ask you for permission to rescue the district immediately after the measures are taken against the Jews, from a menace, which is in-

creasing week by week, and to use the existing and efficient special commandos for that purpose.

"There are about 230,000 people of Polish nationality in my district who were diagnosed to suffer from tuberculosis. The number of persons infected with open tuberculosis is estimated at about 35,000. This fact has led in an increasing frightening measure to the infection of Germans, who came to the Warthegau perfectly healthy. In particular, reports are received with ever-increasing effect of German children in danger of infection. A considerable number of well-known leading men, especially of the police, have been infected lately and are not available for the war effort because of the necessary medical treatment. The ever-increasing risks were also recognized and appreciated by the deputy of the Reich Leader for Public Health (Reichsgesundheitsfuehrer) Comrade Professor Dr. Blome as well as by the leader of your X-ray battalion SS Standartenfuehrer Professor Dr. Hohlfelder.

"Though in Germany proper it is not possible to take appropriate draconic steps against this public plague, I think I could take responsibility for my suggestion to have cases of open TB exterminated among the Polish race here in the Warthegau. Of course only a Pole should be handed over to such an action, who is not only suffering from open tuberculosis, but whose incurability is proved and certified by a public health officer.

"Considering the urgency of this project I ask for your approval in principle as soon as possible. This would enable us to make the preparations with all necessary precautions now to get the action against the Poles suffering from open tuberculosis under way, while the action against the Jews is in its closing stages."

Greiser's proposal was supported in a letter from one, Koppe, the SS and police leader in that region, to the defendant Rudolf Brandt, to which Brandt replied stating that the matter was under consideration and that the final decision would rest with Hitler. Late in June, Himmler sent a "favorable" reply to Greiser cautioning him, however, that the exterminations should be carried out inconspicuously. Thereafter, consultations as to how to carry out the measure occurred between Greiser, Dr. Hohlfelder, and the defendant Blome. The views of Blome are embodied in a letter from him to Greiser written in November 1942. This letter contains an indescribably brutal analysis of the situation, in which Blome expresses agreement with the view that extermination of the tubercular Poles is the simplest and most logical solution, and expresses doubt as to its desirability only in that it would be difficult to keep such widespread slaughter secret, and that Hitler might think the program politically inexpedient if the facts should ever come out.

I quote from the letter of defendant Blome (*NO-250*):

"It was calculated that in 1939 there were among the Poles about 35,000 persons suffering from open tuberculosis and, besides this number, about 120,000 other consumptives in need of treatment. * * *

"With the settlement of Germans in all parts of the Gau an enormous danger has arisen for them. A number of cases of infection of settled children and adults occurs daily.

* * * * * * *

"Therefore, something basic must be done soon. One must decide the most efficient way in which this can be done. There are three ways to be taken into consideration:

1. Special treatment [Sonderbehandlung] of the seriously ill persons.
2. Most rigorous isolation of the seriously ill persons.
3. Creation of a reservation for all TB patients.

"For the planning, attention must be paid to different points of view of a practical, political, and psychological nature. Considering it most soberly, the simplest way would be the following: Aided by the X-ray battalion [Roentgen Sturmbann] we could reach the entire population, German and Polish, of the Gau during the first half of 1943. As to the Germans, the treatment and isolation are to be prepared and carried out according to the regulations for Tuberculosis Relief [Tuberkulosehilfe].

"The approximately 35,000 Poles who are incurable and infectious will be 'specially treated' [sonderbehandelt]. All other Polish consumptives will be subjected to an appropriate cure in order to save them for work and to avoid their causing contagion.

"According to your request I made arrangements with the offices in question, in order to start and carry out this radical procedure within half a year. You told me, that the competent office agreed with you as to this 'special treatment' and promised support. Before we definitely start the program, I think it would be correct if you would make sure once more that the Fuehrer will really agree to such a solution.

* * * * * * *

"There can be no doubt that the intended program is the most simple and most radical solution. If absolute secrecy could be guaranteed, all scruples—regardless of what nature—could be overcome. But I consider maintaining secrecy impossible. Experience has taught us that this assumption is true. Should those sick persons, having been brought, as planned, to the old Reich supposedly to be treated or healed, and they actually never return, the relatives

of those sick persons in spite of the greatest secrecy would some day notice 'that something was not quite right'.

* * * * * * *

"Therefore, I think it necessary to explain all those points of view to the Fuehrer before undertaking the program, as, in my opinion he is the only one able to view the entire complex and to come to a decision."

The prosecution will introduce evidence to show that the program was in fact carried out at the end of 1942 and the beginning of 1943, and that as a result of the suggestions made by Blome and Greiser, many Poles were ruthlessly exterminated and that others were taken to isolated camps, utterly lacking in medical facilities, where thousands of them died.

EUTHANASIA

On 1 September 1939, the very day of the German attack on Poland, and after a great deal of discussion between Dr. Karl Brandt, Dr. Leonardo Conti, Philipp Bouhler, the Chief of the Chancellery of the Fuehrer, and others, Hitler issued the following authority to the defendant Karl Brandt (*630–PS*):

"Reichsleiter Bouhler and Dr. Brandt, M. D., are charged with the responsibility of enlarging the authority of certain physicians to be designated by name in such a manner that persons who, according to human judgment, are incurable can, upon a most careful diagnosis of their condition of sickness, be accorded a mercy death.

[Signed] ADOLF HITLER"

After the receipt of this order, an organization was set up to execute this program, Karl Brandt headed the medical section and Philipp Bouhler, the administrative section. The defendant Hoven, as chief surgeon of the Buchenwald concentration camp, took part in the program and personally ordered the transfer of at least 300 to 400 Jewish inmates of different nationalities, mostly non-German, to their death in the euthanasia station at Bernburg. The defendants Brack and Blome participated in their capacities as assistants to Bouhler and Conti.

Questionnaires were forwarded to the Ministry of the Interior from the various institutes and were then submitted to Karl Brandt and his staff for an expert opinion in order to determine the status of each patient. Then each of those experts indicated his opinion as to the eventual disposition of the patient; that is, whether or not the patient should be transferred to a killing station. The questionnaires were supposedly returned to the Ministry of the Interior, which, in turn, sent lists of the doomed patients to the different insane asylums, ordering the directors of the asylums to hand over the patients to a thing called the General Sick Transport Corporation for transfer to

the particular stations where the killings took place. This Transport Corporation was not a real organization, but one of the code names used to disguise the true nature of the activities. The patients were then transferred to the station where they were immediately killed. This entire procedure took place without the consent of the relatives, but the relatives did receive a death certificate on which the cause of death was falsified.

The Euthanasia Program was an open secret in top Nazi circles. However, every possible effort had been made to keep it from the public in order to avoid intervention by the churches. In spite of all these precautions, it became commonly known in Germany as early as the summer of 1940 that these killings were going on and church authorities, as well as various legal officials, tried in vain to stop the killings.

Typical of the letters reaching the Minister of Justice and the Minister of Interior is the following:

Addressed to The Reich Minister of Justice:

"I have a schizophrenic son in a Wuerttemberg mental institution. I am shocked about the following absolutely reliable information.

"Since some weeks insane persons are being taken from the institutions allegedly on the grounds of military evacuation. The directors of the institutions are enjoined to absolute secrecy. Shortly afterwards the relatives are informed that the sick person has died of encephalitis. The ashes are available if so desired. This is plain murder just as in the concentration camps. This measure uniformly emanates from the SS in Berlin. The institutions dare not inform the authorities. Inquire at once at Rottenmuenster, Schassenried, Winzertal, all in Wuerttemberg. Have the lists of 2 months ago examined and submitted to you, check upon the inmates who are there now and ask where the missing persons went to. For 7 years now this gang of murderers have defiled the German name. If my son is murdered, woe! I shall take care that these crimes will be published in all foreign newspapers. The SS may deny it as they always do. I shall demand prosecution by the public prosecutor.

"I cannot give my name nor the institution where my son is, otherwise I, too, won't live much longer.

Heil Hitler

Oberregierungsrat N."

If this program had stayed within the bounds set forth in Hitler's letter to Karl Brandt, it would have been bad enough. We may pass over as quite irrelevant any such question as whether mercy killing may not in some circumstances be desirable, and whether a statute authorizing mercy killings under proper safeguards would be valid.

Such questions may be debatable, but they do not confront us here. No German law authorizing mercy killings was ever adopted. Hitler's memorandum to Brandt and Bouhler was not a law, not even a Nazi law. It was not intended to be a law or regarded as such even by the top Nazi officials. That is why the program was carried out with the utmost secrecy. The program was known to be utterly illegal by those who were in charge of it; they knew it was nothing but murder.

This is brought out very clearly in a letter from Himmler to the defendant Brack in December 1940 (*NO–018*):

"Dear Brack:

"I hear there is great excitement on the Alb because of the institution Grafeneck.

"The population recognizes the gray automobile of the SS and think they know what is going on at the constantly smoking crematory. What happens there is a secret and yet is no longer one. Thus the worst feeling has arisen there, and in my opinion there remains only one thing, to discontinue the use of the institution in this place and in any event disseminate information in a clever and sensible manner by showing motion pictures on the subject of inherited and mental diseases in just that locality.

"May I ask for a report as to how the difficult problem was solved."

But there are more fundamental matters here. The program did not stay even within the bounds of the secret Hitler authority. Euthanasia became merely a polite word for the systematic slaughter of Jews and many other categories of persons useless or unfriendly to the Nazi regime. The evidence before the International Military Tribunal proved this clearly, and the judgment states, and I quote: *

"Reference should also be made to the policy which was in existence in Germany by the summer of 1940, under which all aged, insane, and incurable people, 'useless eaters', were transferred to special institutions where they were killed, and their relatives informed that they had died from natural causes. The victims were not confined to German citizens, but included foreign laborers, who were no longer able to work, and were therefore useless to the German war machine. It has been estimated that at least some 275,000 people were killed in this manner in nursing homes, hospitals, and asylums, which were under the jurisdiction of the defendant Frick, in his capacity as Minister of the Interior. How many foreign workers were included in this total it has been quite impossible to determine."

*Trial of the Major War Criminals, vol. I, p. 247, Nuremberg, 1947.

I quote one more paragraph from the decision: *

"During the war nursing homes, hospitals, and asylums in which euthanasia was practiced as described elsewhere in this judgment, came under Frick's jurisdiction. He had knowledge that insane, sick and aged people, 'useless eaters', were being systematically put to death. Complaints of these murders reached him, but he did nothing to stop them. A report of the Czechoslovak War Crimes Commission estimated that 275,000 mentally deficient and aged people, for whose welfare he was responsible, fell victim to it."

As stated in the indictment, the defendants involved in the euthanasia program sent their subordinates to the eastern occupied territories to assist in the mass extermination of Jews. This will be shown by abundant evidence, including the following excerpt from a letter from the defendant Brack to Himmler in 1942 from which I quote a paragraph:

"On the instructions of Reichsleiter Bouhler I placed some of my men at the disposal of Brigadefuehrer Globocnik to execute his special mission. On his renewed request I have now transferred additional personnel. On this occasion Brigadefuehrer Globocnik stated his opinion that the whole Jewish action should be completed as quickly as possible so that one would not get caught in the middle of it one day if some difficulties should make a stoppage of the action necessary. You yourself, Reich Leader, have already expressed your view, that work should progress quickly for reasons of camouflage alone."

Protesting the lawless slaughter which even Himmler sought to "camouflage", the Bishop of Limburg in 1941 foresaw that such insane carnage spelled the downfall of the Third Reich. (*615–PS.*) He wrote:

"And if anybody says that Germany cannot win the war, if there is yet a just God, these expressions are not the result of lack of love for the Fatherland but of a deep concern for our people. * * * High authority as a moral concept has suffered a severe shock as a result of these happenings."

SUMMARY

I have outlined the particular charges against the defendants under count two, three, and four of the indictment; and I have sketched the general nature of the evidence which we will present. But we must not overlook that the medical experiments were not an assortment of unrelated crimes. On the contrary, they constituted a well-integrated criminal program in which the defendants planned and collaborated among themselves and with others.

*Ibid, p. 301.

We have here, in other words, a conspiracy and a common design, as is charged in count one of the indictment, to commit the criminal experiments set forth in paragraphs 6 and 11 thereof. There was a common design to discover, or improve, various medical techniques. There was a common design to utilize for this purpose the unusual resources which the defendants had at their disposal, consisting of numberless unfortunate victims of Nazi conquest and Nazi ideology. The defendants conspired and agreed together to utilize these human resources for nefarious and murderous purposes, and proceeded to put their criminal design into execution. Numbered among the countless victims of the conspiracy and the crimes are Germans, and nationals of countries overrun by Germany, and gypsies, and prisoners of war, and Jews of many nationalities. All the elements of a conspiracy to commit the crimes charged in paragraphs 6 and 11 are present and all will be clearly established by the proof.

There were many co-conspirators who are not in the dock. Among the planners and leaders of this plot were Conti and Grawitz, and Hippke whose whereabouts is unknown. Among the actual executioners, Dr. Ding is dead and Rascher is thought to be dead. There were many others.

Final judgment as to the relative degrees of guilt among those in the dock must await the presentation of the proof in detail. Nevertheless, before the introduction of evidence, it will be helpful to look again at the defendants and their part in the conspiracy. What manner of men are they, and what was their major role?

The 20 physicians in the dock range from leaders of German scientific medicine, with excellent international reputations, down to the dregs of the German medical profession. All of them have in common a callous lack of consideration and human regard for, and an unprincipled willingness to abuse their power over the poor, unfortunate, defenseless creatures who had been deprived of their rights by a ruthless and criminal government. All of them violated the Hippocratic commandments which they had solemnly sworn to uphold and abide by, including the fundamental principles never to do harm—"primum non nocere."

Outstanding men of science, distinguished for their scientific ability in Germany and abroad, are the defendants Rostock and Rose. Both exemplify, in their training and practice alike, the highest traditions of German medicine. Rostock headed the Department of Surgery at the University of Berlin and served as dean of its medical school. Rose studied under the famous surgeon, Enderlen, at Heidelberg and then became a distinguished specialist in the fields of public health and tropical diseases. Handloser and Schroeder are outstanding medical administrators. Both of them made their careers in military medicine and reached the peak of their profession. Five more

defendants are much younger men who are nevertheless already known as the possessors of considerable scientific ability, or capacity in medical administration. These include the defendants Karl Brandt, Ruff, Beiglboeck, Schaefer, and Becker-Freyseng.

A number of the others such as Romberg and Fischer are well trained, and several of them attained high professional position. But among the remainder few were known as outstanding scientific men. Among them at the foot of the list is Blome who has published his autobiography entitled "Embattled Doctor" in which he sets forth that he eventually decided to become a doctor because a medical career would enable him to become "master over life and death."

The part that each of these 20 physicians and their 3 lay accomplices played in the conspiracy and its execution corresponds closely to his professional interests and his place in the hierarchy of the Third Reich as shown in the chart. The motivating force for this conspiracy came from two principal sources. Himmler, as head of the SS, a most terrible machine of oppression with vast resources, could provide numberless victims for the experiments. By doing so, he enhanced the prestige of his organization and was able to give free rein to the Nazi racial theories of which he was a leading protagonist and to develop new techniques for the mass exterminations which were dear to his heart. The German military leaders, as the other main driving force, caught up the opportunity which Himmler presented them with and ruthlessly capitalized on Himmler's hideous overtures in an endeavor to strengthen their military machine.

And so the infernal drama was played just as it had been conceived in the minds of the authors. Special problems which confronted the German military or civilian authorities were, on the orders of the medical leaders, submitted for solution in the concentration camps. Thus we find Karl Brandt stimulating the epidemic jaundice experiments, Schroeder demanding "40 healthy experimental subjects" for the sea-water experiments, Handloser providing the impetus for Ding's fearful typhus researches, and Milch and Hippke at the root of the freezing experiments. Under Himmler's authority, the medical leaders of the SS—Grawitz, Genzken, Gebhardt, and others—set the wheels in motion. They arranged for the procurement of victims through other branches of the SS, and gave directions to their underlings in the SS medical service such as Hoven and Fischer. Himmler's administrative assistants, Sievers and Rudolf Brandt, passed on the Himmler orders, gave a push here and a shove there, and kept the machinery oiled. Blome and Brack assisted from the side of the civilian and party authorities.

The Wehrmacht provided supervision and technical assistance for those experiments in which it was most interested. A low-pressure chamber was furnished for the high-altitude tests, the services of

Weltz, Ruff, Romberg, and Rascher for the high-altitude and freezing experiments, and those of Becker-Freyseng, Schaefer, and Beiglboeck for sea water. In the important but sinister typhus researches, the eminent Dr. Rose appeared for the Luftwaffe to give expert guidance to Ding.

The proper steps were taken to insure that the results were made available to those who needed to know. Annual meetings of the consulting physicians of the Wehrmacht held under Handloser's direction were favored with lectures on some of the experiments. The report on the high-altitude experiment was sent to Field Marshal Milch, and a moving picture about them was shown at the Air Ministry in Berlin. Weltz spoke on the effects of freezing at a medical conference in Nuernberg, the same symposium at which Rascher and others passed on their devilish knowledge.

There could, we submit, be no clearer proof of conspiracy. This was the medical service of the Third Reich at work. Among the defendants in the box sit the surviving leaders of that service. We will ask the Tribunal to determine that neither scientific eminence nor superficial respectability shall shield them against the fearful consequences of the orders they gave.

I intend to pass very briefly over matters of medical ethics, such as the conditions under which a physician may lawfully perform a medical experiment upon a person who has voluntarily subjected himself to it, or whether experiments may lawfully be performed upon criminals who have been condemned to death. This case does not present such problems. No refined questions confront us here.

None of the victims of the atrocities perpetrated by these defendants were volunteers, and this is true regardless of what these unfortunate people may have said or signed before their tortures began. Most of the victims had not been condemned to death, and those who had been were not criminals, unless it be a crime to be a Jew, or a Pole, or a gypsy, or a Russian prisoner of war.

Whatever book or treatise on medical ethics we may examine, and whatever expert on forensic medicine we may question, will say that it is a fundamental and inescapable obligation of every physician under any known system of law not to perform a dangerous experiment without the subject's consent. In the tyranny that was Nazi Germany, no one could give such a consent to the medical agents of the State; everyone lived in fear and acted under duress. I fervently hope that none of us here in the courtroom will have to suffer in silence while it is said on the part of these defendants that the wretched and helpless people whom they froze and drowned and burned and poisoned were volunteers. If such a shameless lie is spoken here, we need only remember the four girls who were taken from the Ravensbrueck concentration camp and made to lie naked with the frozen and

all but dead Jews who survived Dr. Rascher's tank of ice water. One of these women, whose hair and eyes and figure were pleasing to Dr. Rascher, when asked by him why she had volunteered for such a task, replied, "rather half a year in a brothel than half a year in a concentration camp."

Were it necessary, one could make a long list of the respects in which the experiments which these defendants performed departed from every known standard of medical ethics. But the gulf between these atrocities and serious research in the healing art is so patent that such a tabulation would be cynical.

We need look no further than the law which the Nazis themselves passed on the 24th of November 1933 for the protection of animals. This law states explicitly that it is designed to prevent cruelty and indifference of man towards animals and to awaken and develop sympathy and understanding for animals as one of the highest moral values of a people. The soul of the German people should abhor the principle of mere utility without consideration of the moral aspects. The law states further that all operations or treatments which are associated with pain or injury, especially experiments involving the use of cold, heat, or infection, are prohibited, and can be permitted only under special exceptional circumstances. Special written authorization by the head of the department is necessary in every case, and experimenters are prohibited from performing experiments according to their own free judgment. Experiments for the purpose of teaching must be reduced to a minimum. Medico-legal tests, vaccinations, withdrawal of blood for diagnostic purposes, and trial of vaccines prepared according to well-established scientific principles are permitted, but the animals have to be killed immediately and painlessly after such experiments. Individual physicians are not permitted to use dogs to increase their surgical skill by such practices. National Socialism regards it as a sacred duty of German science to keep down the number of painful animal experiments to a minimum.

If the principles announced in this law had been followed for human beings as well, this indictment would never have been filed. It is perhaps the deepest shame of the defendants that it probably never even occurred to them that human beings should be treated with at least equal humanity.

This case is one of the simplest and clearest of those that will be tried in this building. It is also one of the most important. It is true that the defendants in the box were not among the highest leaders of the Third Reich. They are not the war lords who assembled and drove the German military machine, nor the industrial barons who made the parts, nor the Nazi politicians who debased and brutalized the minds of the German people. But this case, perhaps more than any other we will try, epitomizes Nazi thought and the Nazi way of

life, because these defendants pursue the savage premises of Nazi thought so far. The things that these defendants did, like so many other things that happened under the Third Reich, were the result of the noxious merger of German militarism and Nazi racial objectives. We will see the results of this merger in many other fields of German life; we see it here in the field of medicine.

Germany surrendered herself to this foul conjunction of evil forces. The nation fell victim to the Nazi scourge because its leaders lacked the wisdom to forsee the consequences and the courage to stand firm in the face of threats. Their failure was the inevitable outcome of that sinister undercurrent of German philosophy which preaches the supreme importance of the state and the complete subordination of the individual. A nation in which the individual means nothing will find few leaders courageous and able enough to serve its best interests.

Individual Germans did indeed give warning of what was in store, and German doctors and scientists were numbered among the courageous few. At a meeting of Bavarian psychiatrists held in Munich in 1931, when the poisonous doctrines of the Nazis were already sweeping Germany, there was a discussion of mercy killings and sterilization, and the Nazi views on these matters, with which we are now familiar, were advanced. A German professor named Oswald Bumke rose and made a reply more eloquent and prophetic than anyone could have possibly realized at the time. He said:

"I should like to make two additional remarks. One of them is, please for God's sake leave our present financial needs out of all these considerations. This is a problem which concerns the entire future of our people, indeed, one may say without being overemotional about it, the entire future of humanity. One should approach this problem neither from the point of view of our present scientific opinion nor from the point of view of the still more ephemeral economic crises. If by sterilization we can prevent the occurrence of mental disease then we should certainly do it, not in order to save money for the government but because every case of mental disease means infinite suffering to the patient and to his relatives. But to introduce economic points of view is not only inappropriate but outright dangerous because the logical consequence of the thought that for financial reasons all these human beings, who could be dispensed with for the moment, should be exterminated, is a quite montrous logical conclusion; we would then have to put to death not only the mentally sick and the psychopathic personalities but all the crippled including the disabled veterans, all old maids who do not work, all widows whose children have completed their education, and all those who live on their income or draw pensions. That would certainly save a lot of money but the probability is that we will not do it.

"The second point of advice is to use utmost restraint, at least until the political atmosphere here in this country shall have improved, and scientific theories concerning heredity and race can no longer be abused for political purposes. Because, if the discussion about sterilization today is carried into the arena of political contest, then pretty soon we will no longer hear about the mentally sick but, instead, about Aryans and non-Aryans, about the blonde Germanic race and about inferior people with round skulls. That anything useful could come from that is certainly improbable; but science in general and genealogy and eugenics in particular would suffer an injury which could not easily be repaired again."

I said at the outset of this statement that the Third Reich died of its own poison. This case is a striking demonstration not only of the tremendous degradation of German medical ethics which Nazi doctrine brought about, but of the undermining of the medical art and thwarting of the techniques which the defendants sought to employ. The Nazis have, to a certain extent, succeeded in convincing the peoples of the world that the Nazi system, although ruthless, was absolutely efficient; that although savage, it was completely scientific; that although entirely devoid of humanity, it was highly systematic—that "it got things done." The evidence which this Tribunal will hear will explode this myth. The Nazi methods of investigation were inefficient and unscientific, and their techniques of research were unsystematic.

These experiments revealed nothing which civilized medicine can use. It was, indeed, ascertained that phenol or gasoline injected intravenously will kill a man inexpensively and within 60 seconds. This and a few other "advances" are all in the field of thanatology. There is no doubt that a number of these new methods may be useful to criminals everywhere and there is no doubt that they may be useful to a criminal state. Certain advance in destructive methodology we cannot deny, and indeed from Himmler's standpoint this may well have been the principal objective.

Apart from these deadly fruits, the experiments were not only criminal but a scientific failure. It is indeed as if a just deity had shrouded the solutions which they attempted to reach with murderous means. The moral shortcomings of the defendants and the precipitous ease with which they decided to commit murder in quest of "scientific results", dulled also that scientific hesitancy, that thorough thinking-through, that responsible weighing of every single step which alone can insure scientifically valid results. Even if they had merely been forced to pay as little as two dollars for human experimental subjects, such as American investigators may have to pay for a cat, they might have thought twice before wasting unnecessary numbers, and thought of simpler and better ways to solve their problems. The

fact that these investigators had free and unrestricted access to human beings to be experimented upon misled them to the dangerous and fallacious conclusion that the results would thus be better and more quickly obtainable than if they had gone through the labor of preparation, thinking, and meticulous preinvestigation.

A particularly striking example is the sea-water experiment. I believe that three of the accused—Schaefer, Becker-Freyseng, and Beiglboeck—will today admit that this problem could have been solved simply and definitively within the space of one afternoon. On 20 May 1944 when these accused convened to discuss the problem, a thinking chemist could have solved it right in the presence of the assembly within the space of a few hours by the use of nothing more gruesome than a piece of jelly, a semi-permeable membrane and a salt solution, and the German Armed Forces would have had the answer on 21 May 1944. But what happened instead? The vast armies of the disenfranchised slaves were at the beck and call of this sinister assembly; and instead of thinking, they simply relied on their power over human beings rendered rightless by a criminal state and government. What time, effort, and staff did it take to get that machinery in motion! Letters had to be written, physicians, of whom dire shortage existed in the German Armed Forces whose soldiers went poorly attended, had to be taken out of hospital positions and dispatched hundreds of miles away to obtain the answer which should have been known in a few hours, but which thus did not become available to the German Armed Forces until after the completion of the gruesome show, and until 42 people had been subjected to the tortures of the damned, the very tortures which Greek mythology had reserved for Tantalus.

In short, this conspiracy was a ghastly failure as well as a hideous crime. The creeping paralysis of Nazi superstition spread through the German medical profession and, just as it destroyed character and morals, it dulled the mind.

Guilt for the oppressions and crimes of the Third Reich is widespread, but it is the guilt of the leaders that is deepest and most culpable. Who could German medicine look to to keep the profession true to its traditions and protect it from the ravaging inroads of Nazi pseudo-science? This was the supreme responsibility of the leaders of German medicine—men like Rostock and Rose and Schroeder and Handloser. That is why their guilt is greater than that of any of the other defendants in the dock. They are the men who utterly failed their country and their profession, who showed neither courage nor wisdom nor the vestiges of moral character. It is their failure, together with the failure of the leaders of Germany in other walks of life, that debauched Germany and led to her defeat. It is because of them and others like them that we all live in a stricken world.

V. INTRODUCTORY STATEMENT ON THE PRESENTATION OF EVIDENCE MADE BY THE PROSECUTION, 10 DECEMBER 1946*

MR. MCHANEY: May it please the Tribunal:

Before any evidence is presented, it is my purpose to show the process whereby documents have been procured and processed in order to be presented in evidence by the United States. I shall also describe and illustrate the plan of presenting documents to be followed by the prosecution in this case.

When the United States Army entered German territory it had specialized military personnel whose duties were to capture and preserve enemy documents, records, and archives.

Such documents were assembled in temporary document centers. Later each Army established fixed document centers in the United States Zone of Occupation where their documents were assembled and the slow process of indexing and cataloging was begun. Certain of these document centers in the United States Zone of Occupation have since been closed and the documents assembled there sent to other document centers.

When the International Military Tribunal was set up, field teams under the direction of Major William H. Coogan were organized and sent out to the various document centers. Great masses of German documents and records were screened and examined. Those selected were sent to Nuernberg to be processed. These original documents were then given trial identification numbers in one of five series designated by the letters: "PS", "L", "R", "C", and "EC", indicating the means of acquisition of the documents. Within each series, documents were listed numerically.

The prosecution in this case shall have occasion to introduce in evidence documents processed under the direction of Major Coogan. Some of these documents were introduced in evidence before the IMT and some were not. As to those which were, this Tribunal is required by Article XX of Ordinance No. 7 to take judicial notice thereof. However, in order to simplify the procedure, we will introduce photostatic copies of documents used in Case No. 1 before the IMT to which will be attached a certificate by Mr. Fred Niebergall, the Chief of our Document Control Branch, certifying that such docu-

*Tr. pp. 75–83.

ment was introduced in evidence before the IMT and that the photostat is a true and correct copy thereof. Such documents have been and will be made available to defendants just as in the case of any other document.

As to those documents processed under the direction of Major Coogan which were not used in the case before the IMT, they are authenticated by the affidavit of Major Coogan dated 19 November 1945. This affidavit served as the basis of authentication of substantially all documents used by the Office of Chief of Counsel before the IMT. It was introdueed in that trial as USA Exhibit 1. Since we will use certain documents processed for the IMT trial, I would now like to introduce as Proseeution Exhibit 1 the Coogan affidavit,* in order to authenticate such documents. This affidavit explains the manner in and means by which captured German documents were processed for use in war crimes trials. I shall not burden the court with reading it as it is substantially the same as the affidavit of Mr. Niebergall to which I shall come in a moment.

I have thus far explained the manner of authenticating documents to be used in this case which were processed under the direction of Major Coogan. I now come to the authentieation of documents processed not for the IMT trial, but for subsequent trials such as this one. These documents are authenticated by the affidavit of Mr. Niebergall which I offer in evidence as Prosecution Exhibit 2. Since this affidavit explains the procedure of processing documents by the Office of Chief of Counsel for War Crimes, I shall read it in full:

"I, Fred Niebergall, AGO, D–150636, of the Offiee of Chief of Counsel for War Crimes, do hereby certify as follows:

1. I was appointed Chief of the Document Control Branch, Evidence Division, Office of Chief of Counsel for War Crimes (hereinafter referred to as 'OCC') on 2 October 1946.

2. I have served in the U. S. Army for more than 5 years, being discharged as a 1st Lieutenant, Infantry, on 29 October 1946. I am now a Reserve officer with the rank of 1st Lieutenant in the Army of the United States of America. Based upon my experience as a United States Army officer, I am familiar with the operation of the United States Army in connection with seizing and processing captured enemy documents. I served as Chief of Translations for OCC from 29 July 1945 until December 1945, when I was appointed liaison offieer between Defense Counsel and Translation Division of OCC as assistant to the executive officer of the Translation Division. In my eapaeity as Chief of the Document Control Branch, Evidence Division, OCC, I am familiar with the processing, filing, translation, and photostating of documentary evidence for the United States Chief of Counsel.

*Trial of the Major War Criminals, vol. II, pp. 157–160, Nuremberg, 1947.

3. As the Army overran German occupied territory and then Germany itself, certain specialized personnel seized enemy documents, records and archives. Such documents were assembled in temporary centers. Later fixed document centers were established in Germany and Austria where these documents were assembled and the slow process of indexing and cataloging was begun. Certain of these document centers have since been closed and the documents assembled there sent to other document centers.

4. In preparing for the trial before the International Military Tribunal (hereinafter referred to as 'IMT') a great number of original documents, photostats, and microfilms were collected at Nuernberg, Germany. Major Coogan's affidavit of 19 November 1945 describes the procedures followed. Upon my appointment as Chief of the Document Control Branch, Evidence Division, OCC, I received custody, in the course of official business, of all these documents except the ones which were introduced into evidence in the IMT trial and are now in the IMT Document Room in Nuernberg. Same have been screened, processed, and registered in accordance with Major Coogan's affidavit. The unregistered documents remaining have been screened, processed, and registered for use in trials before Military Tribunals substantially in the same way as described below.

5. In preparing for trials subsequent to the IMT trial personnel thoroughly conversant with the German language were given the task of searching for and selecting captured enemy documents which disclosed information relating to the prosecution of Axis war criminals. Lawyers and research analysts were placed on duty at various document centers and also dispatched on individual missions to obtain original documents or certified photostats thereof. The documents were screened by German speaking analysts to determine whether or not they might be valuable as evidence. Photostatic copies were then made of the original documents and the original documents returned to the files in the document centers. These photostatic copies were certified by the analysts to be true and correct copies of the original documents. German-speaking analysts either at the document center or in Nuernberg, then prepared a summary of the document with appropriate references to personalities involved, index headings, information as to the source of the document, and the importance of the documents to a particular division of OCC.

6. Next, the original document or certified photostatic copy was forwarded to the Document Control Branch, Evidence Division, OCC. Upon receipt of these documents, they were duly recorded and indexed and given identification numbers in one of six series designated by the letters 'NO,' 'NI,' 'NM,' 'NOKW,' 'NG,' and 'NP,'

indicating the particular Division of OCC which might be most interested in the individual documents. Within each series documents were listed numerically.

7. In the case of the receipt of original documents, photostatic copies were made. Upon return from the photostat room, the original documents were placed in envelopes in fireproof safes in the document room. In the case of the receipt of certified photostatic copies of documents, the certified photostatic copies were treated in the same manner as original documents.

8. All original documents or certified photostatic copies treated as originals are now located in safes in the document room, where they will be secured until they are presented by the prosecution to a court during the progress of a trial.

9. Therefore, I certify in my official capacity as hereinabove stated, that all documentary evidence relied upon by OCC is in the same condition as when captured by military forces under the command of the Supreme Commander, Allied Expeditionary Forces; that they have been translated by competent qualified translators; that all photostatic copies are true and correct copies of the originals, and that they have been correctly filed, numbered, and processed as above outlined.

[Signed] FRED NIEBERGALL."

The Niebergall affidavit is in substance the same as the Coogan affidavit which was accepted by the International Military Tribunal as sufficient authentication of documents used in Case No. 1. However, in addition to these affidavits, the prosecution in this case will attach to each document submitted in evidence, other than self-proving documents such as affidavits signed by the defendants, a certificate signed by an employee of the Evidence Division of the Office of Chief of Counsel for War Crimes, reading, for example, as follows:

"I, Donald Spencer, of the Evidence Division of the Office of Chief of Counsel for War Crimes, hereby certify that the attached document, consisting of one photostated page and entitled, 'Letter from John Doe to Richard Rod, dated 19 June 1943,' is the original of a document which was delivered to me in my above capacity, in the usual course of official business, as a true copy of a document found in German archives, records, and files captured by military forces under the command of the Supreme Commander, Allied Expeditionary Forces.

"To the best of my knowledge, information, and belief, the original document is at the Berlin Document Center."

So much for the authentication of documents to be presented in this trial. I turn now briefly to the distribution of documents which we will use. The prosecution made available to the Defendants' Information Center approximately a week ago three photostatic copies

of the great bulk of the documents which will be used in our case-in-chief. These documents are of course in German. In addition, the prosecution has prepared document books in both German and English which contain, for the most part, mimeographed copies of the documents, arranged substantially in the order in which they will be presented in this court. Each document book contains an index giving the document number, description, and page number. A space is also provided for writing in the index number.

Twelve official copies of the German document books will be filed in the Defendants' Information Center at least 24 hours prior to the time that particular material will be introduced in court. In addition, defense counsel will receive seven so-called unofficial German document books, which will contain mimeographed copies prepared primarily for the German Press. Six official copies of the German document books will be presented to the Tribunal—one for each of the Justices on the bench and one for the Secretary General. Two of such document books will contain photostatic copies in order that the Tribunal may from time to time refer to the original. Document books will also be made available to the German interpreters and court reporters.

The English document books will contain certified translations of the documents in the German document books. The documents will be numbered and indexed identically in both the English and German versions. The Defendants' Information Center will receive four copies of the English document books at the same time the corresponding German document book is delivered. A representative group of the defense attorneys have agreed that four of the English document books are sufficient to meet their needs.

The Tribunal will receive six English document books and sufficient copies will also be made available to the interpreters and court reporters. Copies of all documents introduced in evidence will thereafter be made available to the press.

The prosecution will sometimes have occasion to use documents which have just been discovered and are not in document books. In such cases we will try to have copies in the Defendants' Information Center a reasonable time in advance of their use in court. Now, I must point out to your Honors, and I do so without any embarrassment, that there will surely be some instances during the course of this trial when the prosecution fails to comply with one or the other of the court's rulings in view of the fact that few of our personnel here were able to obtain experience and training in the technicalities in the course of Case No. 1 before the International Military Tribunal, but be that as it may, we shall constantly endeavor to present our case as fairly, as clearly, and as expeditiously as is humanly possible.

The prosecution, when presenting a document in Court, will physically hand the original, or the certified photostatic copy serving as the original, to the clerk of the Tribunal, and give the document a prosecution exhibit number.

In the IMT trial, the usual practice, to which there were many exceptions, was that only those documents or portions of documents which had been read aloud in Court were considered to be in evidence and part of the record. Now this was due to the fact that the IMT trial was conducted in four languages and only through that method were translations in all four languages ordinarily available. However, the IMT ruled several times, for example on 17 December 1945, that documents which had been translated into all four languages and made available to defense counsel in the Defendants' Information Center were admissible in evidence without being read in full.

The prosecution believed that, under the circumstances of this trial, which will be conducted in German and English only, and with all the prosecution's documents translated into German, it will be both expeditious and fair to dispense with the reading in full of all documents or portions of documents. The prosecution will read some documents in full, particularly in the early stages of the trial, but will endeavor to expedite matters by summarizing documents when possible, or otherwise calling the attention of the Tribunal to such passages therein as are deemed important and relevant.

With respect to the order of trial, the prosecution intends to follow, to a large degree, the order in which the various experiments are set forth in the indictment. There will be some exceptions to that; for instance, we will present the sea-water experiments, the proof of sea-water experiments following the malaria experiments, which will be third in order, and in time we will move to the proof of reading the Lost gas experiments because of the overlapping of the testimony of certain witnesses. Insofar as possible, we will endeavor to present all of the evidence relating to a particular experiment at the same time. This will be impossible, of course, where the testimony of a witness overlaps several experiments.

VI. ORGANIZATION OF THE GERMAN MEDICAL SERVICES

a. Introduction

The opening statement of the prosecution (pp. 27–74) deals rather extensively with the organization of the Medical Service of the Wehrmacht, the Medical Service of the SS, and the Civilian Health Service. The Ahnenerbe Society and the Institute for Military Scientific Research, which was set up within the Ahnenerbe, are also mentioned.

Evidence concerning the positions which the prosecution alleged the defendants held is contained in its document book number one. Selections from this document book are set forth on pages 81–91.

b. Evidence

Doc. No.	Pros. Ex. No.	Description of Document	Page
NO–080	5	Fuehrer Decree, 28 July 1942, concerning the Medical and Health Services.	81
NO–081	6	Second Fuehrer Decree, 5 September 1943, concerning the Medical and Health Services.	83
NO–082	7	Fuehrer Decree, 25 August 1944, concerning the appointment of a Reich Commissioner for Medical and Health Services.	83
NO–227	11	Fuehrer Decree of 7 August 1944, concerning the reorganization of the Medical Services of the Wehrmacht.	84
NO–303	32	Table of Organization of the "Ahnenerbe" from the files of the Ahnenerbe Society.	88
NO–422	33	Letter from Himmler to Sievers, 7 July 1942, concerning the establishment of an "Institute for Military Scientific Research" within the Ahnenerbe Society.	89
NO–894	38	Fuehrer Decree, 9 June 1942, concerning the Reich Research Council.	90
NO–645	3	Table of organization of the Reich Commissioner for Health and Medical Services, drawn by the defendant Karl Brandt.	91

TRANSLATION OF DOCUMENT NO–080 PROSECUTION EXHIBIT 5

FUEHRER DECREE, 28 JULY 1942, CONCERNING THE MEDICAL AND HEALTH SERVICES

1942 REICHSGESETZBLATT, PART 1, PAGE 515

Fuehrer Decree of 28 July 1942, Concerning the Medical and Health Services

The utilization of personnel and material in the field of medical and health matters demands a coordinated and planned direction. Therefore, I order the following:

1. For the Wehrmacht I commission the Medical Inspector of the Army, in addition to his present duties, with the coordination of all tasks common to the Medical Services of the Wehrmacht, the Waffen SS, and the organizations and units subordinate or attached to the Wehrmacht, as Chief of the Medical Service of the Wehrmacht.

The Chief of the Medical Services of the Wehrmacht is to represent the Wehrmacht before the civilian authorities in all common medical problems arising in the various branches of the Wehrmacht, the Waffen SS, and organizations and units subordinate or attached to the Wehrmacht, and will protect the interests of the Wehrmacht in all medical measures taken by the civilian authorities.

For the purpose of coordinated treatment of these problems, a medical officer of the Navy and a medical officer of the Luftwaffe will be assigned to work under him, the latter in the capacity of chief of staff. Fundamental problems pertaining to the Medical Service of the Waffen SS will be worked out in agreement with the Medical Inspectorate of the Waffen SS.

2. In the field of the Civilian Health Service, the State Secretary in the Ministry of the Interior and Reich Chief for Public Health, Dr. Conti, is responsible for coordinated measures. For this purpose he has at his disposal the competent departments of the highest Reich authorities and their subordinate offices.

3. I empower Prof. Dr. Karl Brandt, subordinate only to me personally and receiving his instructions directly from me, to carry out special tasks and negotiations to readjust the requirements for doctors, hospitals, medical supplies, etc., between the military and the civilian sectors of the health and medical services.

4. My plenipotentiary for health and medical services is to be kept informed about the fundamental events in the Medical Service of the Wehrmacht and in the Civilian Health Service. He is authorized to intervene in a responsible manner.

Fuehrer Headquarters, 28 July 1942

The Fuehrer
ADOLF HITLER

The Chief of the OKW
KEITEL

The Reich Minister and Chief of the Reich Chancellery
DR. LAMMERS

TRANSLATION OF DOCUMENT NO–081
PROSECUTION EXHIBIT 6

SECOND FUEHRER DECREE, 5 SEPTEMBER 1943, CONCERNING THE MEDICAL AND HEALTH SERVICES

1943 REICHSGESETZBLATT, PART 1, PAGE 533

Second Fuehrer Decree of 5 September 1943, Concerning the Medical and Health Services

In amplification of my decree concerning the Medical and Health Services of 28 July 1942 (RGBL. I, p. 515) I order:

The Plenipotentiary for the Medical and Health Services, General Commissioner Professor Dr. med. Brandt is charged with centrally coordinating and directing the problems and activities of the entire Medical and Health Services according to instructions. In this sense this order applies also to the field of Medical Science and Research, as well as to the organizational institutions concerned with the manufacture and distribution of medical material.

The Plenipotentiary for the Medical and Health services is authorized to appoint and commission special deputies for his spheres of action.

Fuehrer Headquarters, 5 September 1943

The Fuehrer
ADOLF HITLER

The Reich Minister and Chief of the Reich Chancellery
DR. LAMMERS

TRANSLATION OF DOCUMENT NO–082
PROSECUTION EXHIBIT 7

FUEHRER DECREE, 25 AUGUST 1944, CONCERNING THE APPOINTMENT OF A REICH COMMISSIONER FOR MEDICAL AND HEALTH SERVICES

1944 REICHSGESETZBLATT, PART 1, PAGE 185

Fuehrer Decree of 25 August 1944, Concerning the Appointment of a Reich Commissioner for Medical and Health Services

I hereby appoint the General Commissioner for Medical and Health matters, Professor Dr. Brandt, Reich Commissioner for Sanitation and Health [Reich Commissioner for Medical and Health Services] as well, for the duration of this war. In this capacity his office ranks as highest Reich Authority.

The Reich Commissioner for Medical and Health Services is authorized to issue instructions to the offices and organizations of the

State, Party, and Wehrmacht which are concerned with the problems of the medical and health services.

Fuehrer Headquarters, 25 August 1944

The Fuehrer
ADOLF HITLER

The Reich Minister and Chief of the Reich Chancellery
DR. LAMMERS

The Head of the Party Chancellery
M. BORMANN

The Chief of the OKW
KEITEL

TRANSLATION OF DOCUMENT NO–227
PROSECUTION EXHIBIT 11

FUEHRER DECREE OF 7 AUGUST 1944, CONCERNING THE REORGANIZATION OF THE MEDICAL SERVICES OF THE WEHRMACHT

Copy

The Fuehrer
and
Supreme Commander of the Wehrmacht
Fuehrer Headquarters, 7 August 1944
Chief of the Supreme Command of the Wehrmacht [Chief OKW]
Ops. Staff of the Wehrmacht (WFSt)
Org. (I) No. 5008/44g

To obtain a better concentration of powers in the field of the Medical Service of the Wehrmacht, I order in extension of my decree of 28 July 1942:

1. The Chief of the Medical Service of the Wehrmacht will direct, as far as the special field is concerned, the Medical Services of the Wehrmacht and the organizations and services installed within the framework of the Wehrmacht. He is authorized to issue orders, within the special field of his jurisdiction.

2. I approve the service regulation for the Chief of the Medical Services of the Wehrmacht issued by the Chief of the Supreme Command of the Wehrmacht. It will replace the one of 28 July 1942, which was in effect up to now.

3. The personal union of the Chief of Medical Services of the Wehrmacht and the Chief of the Medical Service of the Army/Army Physician [Heeressanitaetsinspekteur/Heeresarzt] is herewith cancelled as of September 1944.

[Signed] ADOLF HITLER

The Chief of the Supreme Command of the Wehrmacht
Reference No. 5008/44 secret

Fuehrer Headquarters, 7 August 1944

SERVICE REGULATION
for the Chief of the Medical Services of the Wehrmacht* [Chef W San]

I
Subordination and Powers

1. The Chief of the Medical Services of the Wehrmacht will be directly under the Chief of the Supreme Command of the Wehrmacht. He will have the position of an office chief [Amtschef] and the disciplinary power according to paragraph 18 of the Wehrmacht Regulation for Disciplinary Action (WDSTO) and the other powers of a Commanding General.

2. He has authority according to No. 1 of the Fuehrer Decree over the following:

a. The Chief of the Army Medical Service, the Chief of the Navy Medical Service, the Chief of the Medical Service of the Luftwaffe, the Chief of the Medical Service of the Waffen SS, and the medical chiefs of the organizations and services employed within the framework of the Wehrmacht while they are acting in the area of command of the Wehrmacht.

b. All scientific medical institutes, academies, and other medical institutions of the services of the Wehrmacht and of the Waffen SS.

II
Duties

1. The Chief of the Medical Services of the Wehrmacht is the adviser of the Chief of the Supreme Command of the Wehrmacht in all questions concerning the Medical Services of the Wehrmacht and of its health guidance.

2. The Chief of the Medical Services of the Wehrmacht will direct all the Medical Services of the Wehrmacht* as far as the special field is concerned, with regard for the military instructions of the Chief of the Supreme Command of the Armed Forces and the general rules of the Fuehrer's Commissioner General for the Medical and Health Departments.

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*To Wehrmacht in this connection belong: Army, Navy, Luftwaffe, the Waffen SS units under orders of the Wehrmacht and the organizations and services engaged within the framework of the Wehrmacht. [Footnote in original document.]

[page 2 of original]

3. The Chief of the Medical Services of the Wehrmacht will inform the Fuehrer's Commissioner General about basic events in the field of the Medical Services of the Wehrmacht.

He will represent the Wehrmacht to the civilian authorities in all mutual medical affairs and he will protect their interests in connection with the health measures of the civilian administrative authorities.

He will represent the Medical Services of the Wehrmacht to the medical services of foreign powers.

4. Other duties of the Chief of the Medical Service of the Wehrmacht will be:

a. In the medical-scientific field:

Uniform measures in the field of health guidance, research and the combating of epidemics, and all medical measures which require a uniform ruling within the Wehrmacht. Evaluation of medical experiences.

Medical matters of the recruiting system, of welfare and maintenance and of prisoners of war.

The presidency of the Scientific Senate of the Medical Services of the Wehrmacht.

b. In the organization and training system:

Uniform and planned direction of the allocation of persons and material.

Unification of the tables of organization and the tables of equipment of the medical troops and the equal provision of the forces with medical personnel.**

Direction of a uniform development of the medical equipment.**

Unification in the sphere of hospital matters, balanced planning, and allocation of hospitals.

Direction of the distribution of wounded and sick soldiers to the hospital installations of the Wehrmacht.

Direction of the voluntary sick-nursing within the Wehrmacht.

Assimilation of the organization and of the training of the new generation of medical officers. Balancing of the proportion according to the requirements of the services. Supervision of the ideological and political training of the new generation of medical officers

[page 3 of original]

during the course of their studies in cooperation with the Reich Student Leader. Training and advanced training of medical officers.

Direction of a uniform training of the medical subaltern personnel.**

** As to the Navy these rules will not apply or will apply with restrictions only to personnel *on board*. [Footnote in original document.]

c. In the field of matériel:

Centralized procurement and direction of fresh supplies of medical matériel of all kinds for the Wehrmacht.

d. General and fundamental pharmaceutical matters.

III
Special Powers

1. The Chief of the Medical Services of the Wehrmacht is entitled to request from the services all records necessary for the performance of his assignments.

2. He is entitled to express his view on the appointment of medical officers or medical leaders in the Wehrmacht and also in the units of the Waffen SS which are subordinated to the Wehrmacht—if the position is that of a Generalarzt or a higher position. Before filling these positions, his opinion has to be heard.

3. He is entitled to inspect the medical service, the medical units, the medical troops and installations of the Wehrmacht after having informed the high command of the service concerned or the headquarters of the units concerned. He is entitled to give orders on the spot in the field of medical service, if these are necessary for the removal of emergencies and do not disagree with fundamental orders of the services. He has to inform the high commands of the services concerned about the results of the inspections and about the issued orders.

[page 4 of original]

4. Fundamental changes in the organization of the medical service, in the subordination of medical officers, noncommissioned officers, and enlisted men and of the officials and employees of the medical service require the consent of the Chief of the Medical Services of the Wehrmacht.

5. Deputy of the Chief of the Medical Services of the Wehrmacht shall be the senior Medical Inspector or the Medical Chief of one of the services. The Chief of Staff will act as his deputy for routine duties.

6. The Chief of the Medical Services of the Wehrmacht issues orders necessary for the performance of his assignments under the name:

"Supreme Command of the Wehrmacht, Chief of the Medical Services of the Wehrmacht."

As far as necessary the services will execute his orders and requests through army channels.

7. For the Chief of the Medical Services of the Wehrmacht the new table of organization of 1 April 1944 is taking effect.

The necessary personnel are to be taken from the services, etc., above all from their medical inspectorates or offices.

[Signed] KEITEL

TRANSLATION OF DOCUMENT NO–303
PROSECUTION EXHIBIT 32

TABLE OF ORGANIZATION OF THE "AHNENERBE" FROM THE FILES OF THE AHNENERBE SOCIETY

"THE AHNENERBE"

The President
The Reich Leader SS H. Himmler

Trustee
SS Sturmbannfuehrer Dr. Walther Wuest

The Reich Business Manager
SS Hauptsturmfuehrer Wolfram Sievers

Reich Business Management

Deputy Reich Business Manager
SS Obersturmfuehrer Herbert Menz

Consultant Secretary
Dr. Gisela Schmitz-Kahlmann

The Special Commissioner of the Reich Leader SS
Sturmbannfuehrer Bruno Galke

Administration
SS Untersturmbannfuehrer Hans-Ulrich Huehne

Graduate of a Business College Alfons Eben

The task of the Research and Instruction Group "The Ahnenerbe" is investigation of space, spirit, accomplishments, and heritage of the Indo-Germanic peoples of Nordic race, the vivification of the results of their research and their transmission to the people.

Realization

Establishment of instruction and research centers
Assignment of research work and conduct of research expeditions
Publication of scientific works
Support of scientific work
Organization of scientific congresses

The Ahnenerbe Foundation

The purpose of the Foundation is to further the endeavors of "The Ahnenerbe", registered society, by donations from the proceeds of the capital of the Foundation and from the capital itself. To interest people who declare themselves willing to put certain contributions either once or at fixed intervals at the disposal of the Foundation.

TRANSLATION OF DOCUMENT NO–422
PROSECUTION EXHIBIT 33

LETTER FROM HIMMLER TO SIEVERS, 7 JULY 1942, CONCERNING THE ESTABLISHMENT OF AN "INSTITUTE FOR MILITARY SCIENTIFIC RESEARCH" WITHIN THE AHNENERBE SOCIETY

The Reich Leader SS — Fuehrer Headquarters, 7 July 1942

AR 48/6/42

[Stamp]

1. Personal Staff Reich Leader SS
Archives, File No. AR/22/21

SECRET!

1. To the Reich Manager of the Ahnenerbe
SS Obersturmbannfuehrer Sievers
Berlin-Dahlem

I request the Ahnenerbe

1. to establish an Institute for Military Scientific Research,

2. to support in every possible way the research carried out by SS Hauptsturmfuehrer Prof. Dr. Hirt, and to promote all corresponding research and undertakings,

3. to make available the required apparatus, equipment, accessories and assistants, or to procure them,

4. to make use of the facilities available in Dachau,

5. to contact the Chief of the SS Economic and Administrative Main Office [Wirtschaftsverwaltungshauptamt] with regard to the costs, which can be borne by the Waffen SS.

[Signed] H. H. [Heinrich Himmler]

2. Copy forwarded to the Chief of the Economic and Administrative Main Office,
SS Obergruppenfuehrer Pohl
Berlin—Lichterfelde—West
with the request to take note.

By order,

[Signed] Brandt
SS Obersturmbannfuehrer
M. 7.7.

Certified True Copy:
Signed M.
SS Obersturmfuehrer
7.7.

TRANSLATION OF DOCUMENT NO–894
PROSECUTION EXHIBIT 38

FUEHRER DECREE, 9 JUNE 1942, CONCERNING THE REICH RESEARCH COUNCIL

1942 REICHSGESETZBLATT, PART 1, PAGE 389

Fuehrer Decree of 9 June 1942 Concerning the Reich Research Council

The necessity to expand all available forces to highest efficiency in the interest of the state requires, not only in peace time but also, and especially, in war time, the concentrated effort of scientific research and its channellization toward the goal to be aspired.

Therefore, I commission the Reich Marshal Hermann Goering to establish as an independent entity a Reich Research Council, which is to serve this purpose, to take over its chairmanship himself and to give it a charter.

Leading men of science above all are to make research fruitful for warfare by working together in their special fields. The hitherto existing Reich Research Council which was under the Reich Minister for Science and Education [Wissenschaft, Erziehung und Volksbildung] is to be absorbed by the new organization.

The means needed for research purposes are to be established in the Reich budget as far as they will not be raised from contributions (for research) of circles interested in research.

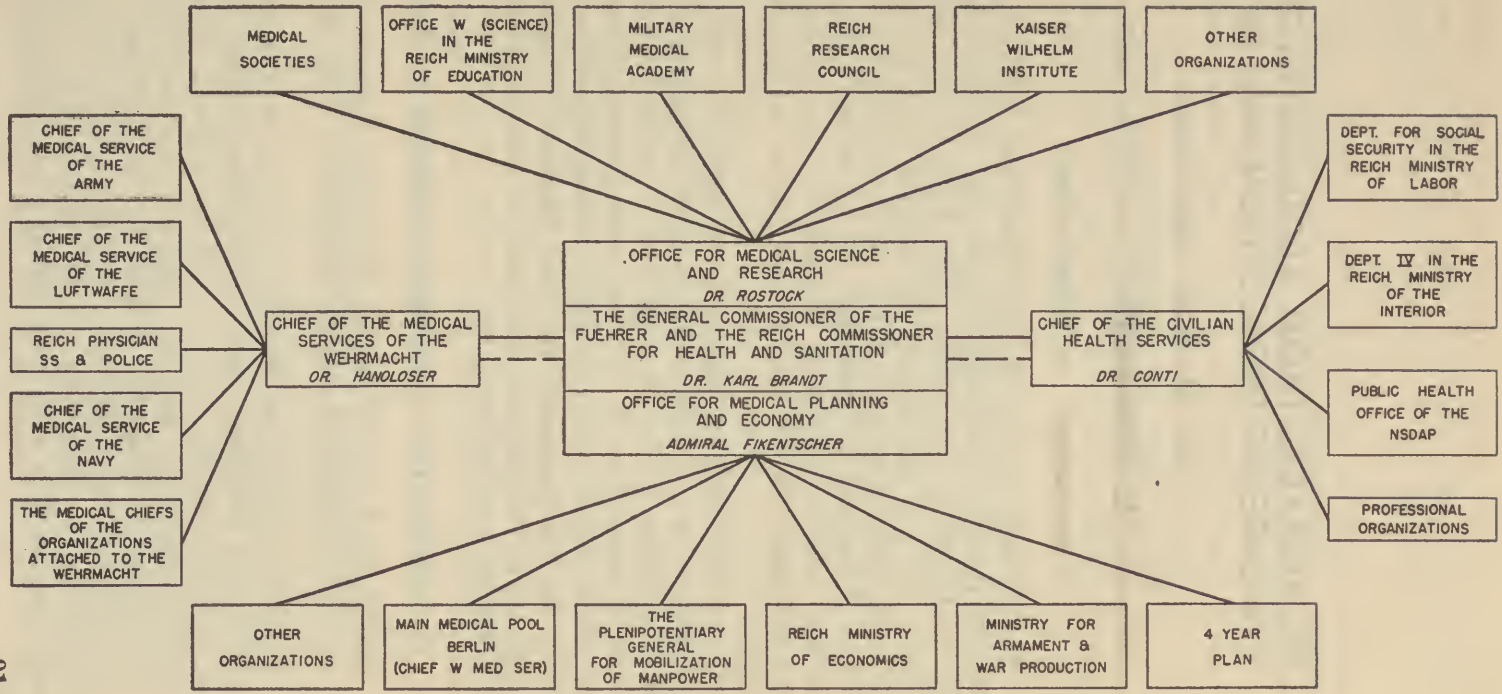
Fuehrer Headquarters, 9 June 1942

The Fuehrer
ADOLF HITLER

The Reich Minister and Chief of the Reich Chancellery
DR. LAMMERS

TRANSLATION OF DOCUMENT NO-645
PROSECUTION EXHIBIT 3

(Table of Organization of the Reich Commissioner for Health and Medical Service, drawn by the defendant Karl Brandt)



VII. EXTRACTS FROM ARGUMENTATION AND EVIDENCE OF PROSECUTION AND DEFENSE

A. Medical Experiments

1. HIGH-ALTITUDE EXPERIMENTS

a. Introduction

The defendants Karl Brandt, Handloser, Schroeder, Gebhardt, Rudolf Brandt, Mrugowsky, Poppendick, Sievers, Ruff, Romberg, Becker-Freyseng, and Weltz were charged with special responsibility for and participation in criminal conduct involving high-altitude experiments (par. 6 (*A*) of the indictment). During the course of the trial, the prosecution withdrew this charge in the cases of Karl Brandt, Handloser, Poppendick, and Mrugowsky. Only the defendants Rudolf Brandt and Sievers were convicted on this charge.

The prosecution's summation of the evidence on the high-altitude experiments is contained in its closing brief against the defendants Ruff, Romberg, and Weltz. An extract from this brief is set forth below on pages 92 to 113. A corresponding summation of the evidence by the defense on these experiments has been selected from the closing briefs for the defendants Ruff and Sievers. It appears below on pages 114 to 140. This argumentation is followed by selections from the evidence on pages 140 to 198.

b. Selection From the Argumentation of the Prosecution

EXTRACTS FROM THE CLOSING BRIEF AGAINST DEFENDANTS RUFF, ROMBERG, AND WELTZ

Early in the war it was deemed necessary to conduct research in the field of high altitudes because of the higher ceilings reached by the Allied fighter planes. This created the problem of availability of human experimental subjects, inasmuch as animal experimentation was considered inadequate. The heights involved were 12,000 meters to over 20,000 meters, hence it goes without saying that such experiments were very dangerous and, as indicated by the evidence, volunteers were not to be had. This difficulty was overcome by the use of

concentration camp inmates without their consent. The first indication of this criminal plan appears in a letter from Dr. Sigmund Rascher, a Luftwaffe physician, in a letter to the Reich Leader SS dated 15 May 1941:

"For the time being, I have been assigned to the Luftgau Kommando VII, Munich, for a medical selection course. During this course, where research on high-altitude flying plays a prominent part, determined by the somewhat higher ceiling of the English fighter planes, considerable regret was expressed that no experiments on human beings have so far been possible for us because such experiments are very dangerous, *and nobody is volunteering.* I therefore put the serious question: is there any possibility that two or three professional criminals can be made available for these experiments?" [Emphasis supplied.] (*1602, PS, Pros. Ex. 44.*)

It further appears in this Rascher letter of 15 May 1941 that Rascher had conferred with another Luftwaffe physician and that a tentative agreement had been reached wherein it was determined that the experiments on the concentration camp inmates, in which the experimental subjects were expected to die, would be performed at the "Bodenstaendige Pruefstelle fuer Hoehenforschung der Luftwaffe" at Munich:

"The experiments are being performed at the Ground Station for High-Altitude Experiments of the Luftwaffe [Bodenstaendige Pruefstelle fuer Hoehenforschung der Luftwaffe] at Munich. The experiments, in which the experimental subject of course may die, would take place with my collaboration. They are absolutely essential for the research on high-altitude flying and cannot, as it had been tried until now, be carried out on monkeys, because monkeys offer entirely different test conditions. I had an absolutely confidential talk with the representative of the Luftwaffe physician who is conducting these experiments. He also is of the opinion that the problems in question can only be solved by experiments on human beings." (*1602–PS, Pros. Ex. 44.*)

* * * * * * *

Weltz testified that a meeting took place in the summer of 1941 on the occasion of a visit by Generaloberstabsarzt Hippke to Luftgau VII. (*Tr. p. 7056.*) In a discussion between Weltz, Kottenhoff, and Hippke, Hippke gave his approval in principle to the experiments if they were deemed necessary. (*Tr. p. 7065.*) In the course of the summer of 1941, Rascher went to Weltz and proposed the slow-ascent experiments, but Weltz turned them down as unnecessary. (*Tr. p. 7176.*) This testimony of the defendant Weltz clearly indicates the jurisdiction Weltz had over Rascher's activities. This refusal to permit the performance of slow-ascent experiments bears out the contention of the prosecution that the defendant Weltz had the power and

the authority to intervene at any time. Weltz' actions throughout the entire development of the plans for the experiments were not merely negative. He was in full accord with the entire enterprise and he realized that Rascher did not possess the necessary qualifications to conduct these experiments without the assistance of a specialist in this particular field of aviation medicine. Furthermore, although Rascher was attached to Weltz' Institute he had no other definite work. (*Tr. pp. 7078 and 7187.*) To find a specialist to collaborate with Weltz and Rascher proved to be a difficult task. Weltz first approached members of his own institute, namely Lutz and Wendt, men of considerable reputation in this field, but to no avail. Wolfgang Lutz appeared before this Tribunal and testified that Weltz requested his assistance, as well as the assistance of Wendt, but that they both refused on moral grounds. (*Tr. p. 269.*) Weltz did not deny this, but contended that his questions to Lutz were purely rhetorical. (*Tr. p. 7069.*)

The inability to interest a specialist in the field of high-altitude research to collaborate with Rascher explains the cause for the lapse of time between the date of the authorization by Himmler and the actual date of the commencement of the experiments, viz, July 1941 to February 1942. Weltz was not a specialist in high-altitude research. Kottenhoff was transferred to Romania, and Rascher was comparatively a novice in this field.

The next step taken by Weltz, which led to the completion of the plans to conduct the high-altitude experiments on human beings at the Dachau concentration camp, was his invitation to the defendants Ruff and Romberg to collaborate with Rascher. These two men were experts in this field and were interested in further research in altitudes exceeding 12,000 meters. Weltz testified that he made a trip to Berlin and that Ruff accepted his invitation to collaborate with Rascher. (*Tr. p. 7188.*) The evidence shows that Weltz approached Ruff and Romberg as he needed expert assistance. (*NO–437, Pros. Ex. 42; NO–263, Pros. Ex. 47; NO–191, Pros. Ex. 43.*) The defendant Ruff stated that he first heard of the plan to carry out research on inmates of the Dachau concentration camp from the defendant Weltz and that Weltz desired collaboration between Romberg and Rascher and between Weltz' Institute and Ruff's Institute. (*Tr. p. 6653.*) Furthermore, Ruff testified that Weltz stated:

> "It is, of course, best if you or Romberg take part in these experiments because Romberg had already carried out such parachute descent experiments and is therefore the man who knows about the whole problem of rescue from high altitudes." (*Tr. pp. 6654–5.*)

Ruff further testified that Weltz suggested that a new series of experiments in parachute descents from great heights should be carried out at Dachau on prisoners. (*Tr. p. 6653.*)

From this moment on, the experimental program started to move as a mutual undertaking. This is better stated by the defendant Weltz:

"This was to be a mutual undertaking, during which Ruff was to detail Romberg and I was to detail Rascher. Ruff naturally was to be chief of Romberg and I, as a matter of course, was to be Rascher's chief. Ruff couldn't give any orders to Rascher. Rascher was a captain in the Medical Corps and Ruff was a civilian. I couldn't give any orders to Romberg because Romberg was a civilian while I was a soldier. Naturally, this is how the distribution was. It had to be that way. Furthermore, it was clear that I couldn't in any way retire. I could not just leave Rascher to Ruff. It was quite clear that I had to participate in these experiments by exercising supervision, but not by actively participating." (*Tr. p. 7079.*)

This evidence certainly rebuts Weltz' vague contention that he was not in search of specialists in high-altitude research to collaborate with him and Rascher. Without the efforts of Weltz the experiments could never have taken place. In brief, to conduct these experiments at altitudes exceeding 12,000 meters Weltz found it necessary to secure the assistance of experts in the field, as well as a low-pressure chamber which would meet his needs. Ruff and Romberg possessed both, and in the above manner Weltz skillfully engineered the whole plan.

Immediately after Weltz had completed his negotiations with Ruff, he called a meeting at his institute in Munich, wherein discussions of a technical nature concerning the experiments were held. At this meeting, Ruff, Romberg, Rascher, and Weltz were in attendance. This meeting was at Weltz' Institute and Weltz presided over the meeting. It was further decided that a second meeting was to be held at Dachau a few days later in order to make the necessary arrangements with the camp commander. This trip took place in order to discuss technical preparations with the camp commander and to arrange details concerning the selection of the experimental subjects. Again, Weltz, Ruff, Romberg, and Rascher were in attendance, in addition to Piorkowski, the camp commander, and Schnitzler of the staff of the Reichsfuehrung SS. (*NO–476, Pros. Ex. 40; NO–437, Pros. Ex. 42; NO–263, Pros. Ex. 47; Tr. pp. 7086–7.*)

After the arrangements with the camp authorities at Dachau had been completed, the shipment of the low-pressure chamber from Berlin was the next problem to overcome. As pointed out earlier, Weltz desired the low-pressure chamber which was possessed by Ruff and Romberg for use in the experiments at Dachau. It is interesting to note that Weltz had had a low-pressure chamber available in his own institute from 1938 on (*Tr. p. 7178*), and that Weltz testified that volunteers from his student body or from the Luftwaffe were available. (*Tr. pp. 7180–83.*) Despite this, it was necessary to resort to the

concentration camp for inmates and, in order to conduct the experiments, a mobile pressure chamber had to be brought down from the Ruff Institute in Berlin, as the low-pressure chamber in the Weltz Institute was not mobile. The mobile low-pressure chamber from Ruff's Institute at Berlin was driven to Weltz' Institute in Munich and arrived in the late afternoon. This chamber was driven to Munich by employees of the DVL and turned over to Weltz. On the following day, SS drivers came from Dachau, received the keys to the chamber and drove it to the concentration camp. (*Tr. p. 7199.*) The purpose in camouflaging this activity was to deceive the employees of the DVL because Weltz and Ruff did not want them to know that the low-pressure chamber was to be used in an experimental program at a concentration camp. This is borne out by the fact that a completely new set of drivers came from the concentration camp to take the chamber to Dachau. This particular action of secrecy is noticeable when it is considered that Dachau is merely 12 kilometers from Munich and actually the DVL drivers had to go out of their way to deliver the chamber to the Weltz Institute. Ruff testified that the secrecy in the transfer of the chamber to Dachau was for security reasons. (*Tr. p. 6550.*)

From the evidence thus far summarized, and indeed from Weltz' own admission, it is clear that he must be found guilty of the high-altitude crimes committed in Dachau. This was a criminal undertaking from its inception. It was known to all concerned that the proposed experiments were certain to result in deaths and that they were to be performed on nonvolunteers. That is proved by the very first letter to Himmler. Weltz supported the ambition of his subordinate, Rascher, to perform the experiments on behalf of the Weltz Institute. He secured the collaboration of Ruff and Romberg. He obtained the consent of Hippke and a research assignment from the Referat for Aviation Medicine under Anthony and Becker-Freyseng. He took care of the technical arrangements and participated in conferences with Ruff, Romberg, and Rascher which decided on the experiments to be performed. Weltz did more in having the experiments performed than anyone else. His guilt is clearly established on this evidence alone. It is not disputed that Rascher was subordinated to him until February 1942. Weltz' main defense is that he had Rascher transferred from his institute late in February 1942 and, hence, cannot be held responsible for what happened thereafter. Even if true, this is no defense. Weltz had long since participated in the criminal enterprise. He cannot be heard to say that "Yes, I did all that, but I'm not responsible for the actual consequences which my acts were expected to bring about." The deaths which occurred in these experiments were foreseeable from the beginning. Weltz does not escape responsibility for those deaths, even if it were

true that Rascher was not subordinated to him when they occurred. But that is not true, as the evidence proves.

The actual date of the commencement of the experiments at Dachau was 22 February 1942, which was recalled by the witness Neff because it was his birthday. (*Tr. p. 606.*) From this point on, the defendant Weltz takes the position that he had no knowledge of the work and that, in fact, Rascher was relieved from his command. Weltz admitted that it was his obligation to supervise Rascher and that the existing arrangement between Ruff and Weltz was that this was to be a joint undertaking. Ruff exercised supervision over Romberg, and Weltz was to exercise supervision over Rascher. Weltz conceded that he was Rascher's disciplinary superior and was responsible for the scientific programs to which he assigned Rascher. (*Tr. p. 7088.*) Despite this chain of command and working agreement, Weltz takes the position that Rascher endeavored to work independently and that he did not desire to report to Weltz. (*Tr. pp. 7088–9.*) It became necessary for Weltz to order Rascher to report to him twice a week and, as a result of this order, Weltz alleges that Rascher came to him in the middle of February and that they had their first conversation since the meeting in Dachau and on that occasion, Rascher informed Weltz that the experiments had not even started yet and that he had nothing to report. (*Tr. p. 7089.*)

Weltz testified that Anthony, under whom Becker-Freyseng worked in the Luftwaffe Medical Inspectorate, in Berlin, telephoned him to inquire how the Dachau experiments were progressing and that he could only reply that nothing had been reported to him. Rascher reported to him for the second time, whereupon Weltz informed Rascher that a telephone call had come through from Berlin and that he wanted to have some clarification as to how things stood at Dachau. Rascher did not want to report anything to Weltz at the second conversation, and Weltz maintains that he told Rascher that he was going to Berlin to clear up the situation and obtain a clear decision whether or not Rascher was to report to him. Then, on the occasion of the third visit from Rascher, Weltz, expecting a sharp argument, asked Wendt of his office to come into the room, and on that occasion he confronted Rascher with the alternative either to report to him or to leave the institute. Weltz asserts that at that time Rascher showed him a telegram from Himmler, which read: "Experiments are to be kept secret from everyone." (*Tr. p. 7089.*) Thereupon, Weltz maintains that he ordered Rascher from his institute and that he then composed a letter, together with Wendt, to the Luftgau and asked for Rascher's immediate transfer and that within a few days Rascher's assignment had ended. (*Tr. p. 7090.*)

The memorandum of Nini Rascher to Himmler of 24 February 1942 shows that at that time Rascher was still subordinate to Weltz.

(*NO–263, Pros. Ex. 47.*) She reviewed the history of the experiments and pointed out that on 24 July 1941 Rascher, Kottenhoff, and Weltz were to be in charge. Kottenhoff was transferred to Romania in August and thereby excluded from the group. She stated that it was Weltz's task to initiate the technical execution of the experiments. Apparently because of a fear of moral objections on the part of Hippke, Weltz had postponed the beginning of the experiments but had finally secured Ruff and Romberg to collaborate with Rascher. A conference took place in Dachau between Piorkowski, Schnitzler, Weltz, Rascher, Romberg, and Ruff. Weltz had given the assurance that he would take care of the authorization for Rascher. Mrs. Rascher complained that on 18 February, after Rascher had carried out all the preparatory work, Weltz stated: "Now that you have removed all obstacles from the path of Romberg with the SS, the authorization must be handled differently." Mrs. Rascher stated that both Romberg and Rascher agreed that Weltz was not needed anymore and that both opposed his attempts to oust Rascher in favor of himself.

Weltz contended that the truth of the matter was that he wished to get rid of Rascher, and that Mrs. Rascher had misrepresented this to Himmler so that it would appear that he was trying to eliminate Rascher in order to keep the work exclusively to himself. (*Tr. p. 7099.*) There can be no question that Mrs. Rascher was quite correct in her analysis of the situation. What possible reason could Weltz have for desiring, just before the experiments began, to eliminate Rascher unless he wished to participate himself personally and thus secure a larger share of the scientific credit? Certainly he had supported Rascher from the very inception of the proposal to perform the experiments. Be that as it may, the proof shows that Rascher continued to participate in the experiments as a subordinate of Weltz. This is clearly proved by a file memorandum of Schnitzler of the SS office in Munich, dated 28 April 1942. (*NO–264, Pros. Ex. 60.*) This memorandum shows that Rascher was still subordinated to Weltz, and that Weltz was insisting on active participation in the experiments and full responsibility. The RLM [Reich Air Ministry] had inquired of Weltz how long the experiments would last, and whether it was justifiable to detail a medical officer for so long. Rascher, who was chafing under his subordination to Weltz, requested that his assignment be changed to the DVL [German Aviation Research Institute], Dachau Branch.

Weltz' only reaction to this document was that the date was wrong and should read 28 February 1942 instead of 28 April 1942. (*Tr. p. 7099 ff.*) Weltz conceded on cross-examination that, assuming the date 28 April 1942 was correct, then of course Rascher was still his subordinate at that time. (*Tr. p. 7232.*) The file memorandum of

Sievers dated 3 May 1942 settled this question beyond any doubt. This memorandum reads as follows:

"SS Untersturmfuehrer Stabsarzt Dr. Rascher reported in Munich on 29 April 1942 about the result of the conference with Oberstabsarzt Dr. Weltz. Weltz requested that Dr. Rascher be withdrawn if by Friday, 1 May 1942 he (Weltz) were not taken into consultation regarding the experiments. The Reich Leader SS was informed accordingly. He ordered SS Obergruppenfuehrer Wolff on 30 April 1942 to send a telegram to Field Marshal Milch requesting that Dr. Rascher be ordered to the German Aviation Research Institute [Deutsche Versuchsanstalt fuer Luftfahrt], Dachau Branch, and there to be at the disposal of the Reich Leader SS." (*NO–1359, Pros. Ex. 493.*)

After having been confronted with this document Weltz in effect conceded that his previous testimony about the transfer of Rascher had been, to say the least of it, incorrect. He said:

"Yes, now the entire matter looks somewhat different. If I had this file note of Sievers in addition to my other documents, I would have known that the note of Schnitzler was correct, and that there must be another possibility to explain Mrs. Nini Rascher's letter. This letter, on the other hand, cannot be explained now. I can only try to reconstruct the dates from the documents which were available here, since I no longer know them today." (*Tr. p. 7239.*)

On redirect examination by his defense counsel, Weltz was asked again to clarify the situation with respect to Rascher's subordination, and he replied:

"Since my first attempt to clarify this contradiction came to naught, I should not like to try again. I simply can see no way to clarify it on the basis of the material before me." (*Tr. p. 7251.*)

In a letter of 20 May 1942 from Milch to Wolff it is again made evident beyond any doubt that Rascher was subordinate to Weltz:

"In reference to your telegram of 12 May our medical inspector reports to me that the altitude experiments carried out by the SS and Air Force at Dachau have been finished. Any continuation of these experiments seems essentially unreasonable. However, the carrying out of experiments of some other kind, in regard to perils at high sea, would be important. These have been prepared in immediate agreement with the proper offices; Major (M. C.) Weltz will be charged with the execution and Captain (M. C.) Rascher will be made available until further orders in addition to his duties within the Medical Corps of the Air Corps." (*343–A–PS, Pros. Ex. 62.*)

Thus it is clear that Weltz must be held responsible for the numerous murders which resulted during the high-altitude experiments in Dachau. Not only did he participate in plans and enterprises involv-

ing the commission of these experiments, but he also was the direct superior of Rascher who, together with Ruff and Romberg, actually executed the experiments.

Status of Prisoners Used in the Experiments

After Weltz had successfully secured the collaboration of Ruff and Romberg, he held a meeting at his institute in Munich late in December 1941, or early in January 1942. (*Tr. p. 6657; Tr. p. 7086.*) Ruff, Romberg, Weltz, and Rascher attended this meeting primarily to lay the groundwork for the technical arrangements necessary to perform the work at Dachau. It is alleged by all the defendants that the question regarding the status of the prisoners to be used was discussed and that Rascher had assured them that the subjects would be exclusively volunteers. (*Tr. p. 7086; Tr. p. 6232; Tr. p. 6869.*) In fact, the defendants state that Rascher exhibited a communication from Himmler which provided that the subjects must be volunteers under all circumstances. (*Tr. p. 6869.*) Unfortunately, this letter has not been produced by the defense. Needless to say, the defendants take the position that such experiments were to be performed on habitual and condemned criminals and that considerations were to be offered to said "volunteers" in the event of their surviving the experiments. As a matter of fact, Romberg explicitly states that he saw the "Himmler letter" and he was able to observe the words "criminal" and "volunteer" therein. (*Tr. p. 6870.*)

The assertion on the part of the defendants that Himmler had ordered that the criminals used be volunteers is ridiculous and incredible when one considers that Himmler instructed Rascher to pardon these unfortunate inmates only if they could be recalled to life after having been subjected to the type of experiments outlined in Rascher's first interim report, wherein it is shown that the experimental subjects had stopped breathing altogether and their chests had been cut open, i. e., autopsy had been actually performed on them. (*1971–A–PS, Pros. Ex. 49.*)

In this instance, Himmler graciously stated:

"3. Considering the long-continued action of the heart, the experiments should be specifically exploited in such a manner as to determine whether these men could be recalled to life. Should such an experiment succeed, then, of course, the person condemned to death shall be pardoned to concentration camp for life." (*1971–B–PS, Pros. Ex. 51.*)

It is absurd to give any weight to the allegation that Himmler provided that the subjects were to be volunteers. These men knew that volunteers could not be secured and that was the very reason for going to Himmler. This is shown in the letter from Rascher

to Himmler requesting that criminals be made available due to the fact that "nobody is volunteering."

The defendant Ruff admitted on the stand that the experiments conducted on themselves and colleagues in Berlin concerned altitudes up to 12,000 meters and that the question of what would happen between 12,000 and 20,000 meters was subsequently investigated at Dachau. (*Tr. p. 6679.*) It is obvious, therefore, that Ruff, Romberg, Weltz, and Rascher were unwilling to perform such investigations on themselves.

The evidence has proved that the subjects used in the high-altitude experiments were not, with a few minor exceptions, volunteers. The inmates were simply selected at random in the camp and forced to undergo the experiments. Russians, Poles, Jews of various nationalities, and Germans were used. Russian prisoners of war were included, as were many political prisoners. Approximately 180 to 200 inmates were experimented on, about 70 to 80 being killed as a result. Not more than 40 of these had been "condemned to death." Among those killed were political prisoners. (*Tr. pp. 613–18; also Tr. p. 432.*) This testimony of Neff, who was the inmate assistant in the experiments and who identified Ruff, Romberg, and Weltz, is corroborated by Rascher's cable asking if Himmler's amnesty rule applied to Russians and Poles who had been extensively used in the experiments. (*1971–D–PS, Pros. Ex. 52.*) The nationality and status of inmates were easily discernible from the badges worn on their uniforms. Ruff and Romberg could have told from these that foreign nationals and political prisoners were being used. (*Tr. pp. 616–7.*)

The witness Neff's testimony reveals that approximately 10 prisoners were selected as permanent, experimental subjects, but they were not volunteers. (*Tr. pp. 611, 622, and 430.*) There were, however, a few "volunteers" according to Neff. He stated that "there were certain volunteers for these experiments, because Rascher promised certain persons that they would be released from the camp if they underwent these experiments." (*Tr. p. 614.*) Neff clearly pointed out that in view of the way the prisoner subjects were selected and used it was not possible to know who were volunteers, if any, and who were not volunteers. (*Tr. pp. 606–26.*) They were not brought in and used as a separate group. Moreover, the evidence shows that these promises were not kept. (*Tr. p. 615.*) The only evidence of a release is the case of Sabota, as outlined by Neff, and in that case he was sent to an undesirable special SS commando group. No death sentences were commuted.

The defense claims for Ruff and Romberg that the experiments at Dachau were divided into two groups. The first group, the so-called Ruff-Romberg-Rascher experiments, was noncriminal, while the second group, the Rascher experiments, encompassed all the

crimes. They contend that the Ruff-Romberg-Rascher experiments were conducted independently of the Rascher experiments and that the 10 original subjects mentioned by Neff and Vieweg were used exclusively for the Ruff-Romberg-Rascher experiments. Despite the testimony of the witnesses and the weight of the documentary evidence, they would have the Tribunal believe that by a wondrous working of fate these were all volunteers and no crimes occurred. This defense is of course inapplicable to Weltz. Rascher was subordinated to and subject to his orders.

It should be noted that Romberg and Rascher who tested themselves in the altitude chamber at Dachau with an air pressure equivalent to 12,500 and 13,500 meters altitude respectively, for 30 to 40 minutes, discontinued these experiments on themselves because of intense pain. (*NO–402, Pros. Ex. 66.*) Yet, these men proceeded, as proved by their own joint report, to conduct experiments on prisoners which they would not perform on themselves.

The experimenters took no responsibility or even interest in seeing to it that the alleged promises made to the subjects to induce them to "volunteer" were kept. (*Tr. p. 6993.*) Although Romberg said he had no channel to Himmler, he also admitted he visited Himmler with Rascher in July 1942. (*Tr. pp. 7015–6.*)

In this connection, we must consider the convenient line of the defense. By limiting the Ruff-Romberg-Rascher experiments to the 10 subjects, we find that they further allege that no deaths occurred in those experiments as opposed to a considerable number of deaths in the Rascher work. But the witness Neff, in describing the first day of the experiments, emphatically stated that the first series of experiments *was not carried out on volunteers.* Furthermore, the defendant Ruff was also present during these experiments. (*Tr. p. 622.*) The defendants' contention that the experiments were in two groups is *explicitly denied* by Neff. He testified that Romberg not only experimented with Rascher on the original 10 subjects, but also on a large number of other prisoners. The distinction fabricated by the defendants cannot possibly be credited in the light of Neff's testimony. On being asked the question whether Romberg experimented only on the 10 original subjects, Neff replied:

> "Experiments were conducted not only with these ten persons but, for example, in a series of experiments which Romberg also conducted on a large number of other prisoners. The distinction which the defense counsel tries to make between experiments included in the report to the Luftgau or of death—it is impossible for me to make this distinction and to distinguish between those which fell into one category or the other." (*Tr. p. 691.*)

Which is to be believed, the testimony of Neff, plus one's common sense, or the self-serving statements of the defendants? This is a

question the Tribunal must answer. There is no such thing as half a murderer. These defendants are responsible for those murders or they are not responsible. There is not one scintilla of evidence to support the ridiculous contention that a group of volunteers, segregated for use by Romberg, wore different colored shirts so he could tell them apart and were treated with the greatest deference. But that is just what Ruff and Romberg ask the Tribunal to find. It is absolutely impossible in the face of the record.

This alleged disassociation of Ruff and Romberg from the "crimes committed exclusively by Rascher" is in complete contradiction to the acts of these defendants during the experiments, which after all speak much louder than their present testimony. Neff testified that Romberg personally witnessed at least five deaths during the experiments, and that he made no effort to stop them nor did he even protest after the event. (*Tr. p. 619.*) Romberg admitted seeing three deaths and that he knew that five to ten other murders took place in his absence. (*NO–476, Pros. Ex. 40.*) The first death Romberg saw, he said, occurred in April. He reported this to Ruff. *Yet the experiments were not discontinued.* They went on to the end of June and still more deaths occurred which Romberg saw. *To say the least of it, these defendants made themselves a party to murder by continuing the experiments.* This is true no matter how innocent they may have been up to the first death. They were duty bound to stop the experiments immediately, remove the chamber, and force a court martial of Rascher. They did none of these simple and obvious things. They did not for the very reason that deaths were expected from the very beginning and were a part of the experimental plan. Romberg saw these men die and did absolutely nothing. It was within his power to save them at the time. He said he was operating the electrocardiograph. He knew precisely by their heart action when the subjects were in danger of dying. He also knew this from his knowledge of reaction to high altitudes. He could see and read the pressure gauges. He could have turned the pressure down and saved their lives by simply moving the gauge which was within arm's reach. He was a bigger man than Rascher. Force could have been used if necessary. Not only did he do nothing while the helpless victims died before his very eyes, but he assisted in the autopsies.

After all these murders had occurred and were known to them, Ruff and Romberg still went on. They issued a joint report on the experiments in the name of Ruff, Romberg, and Rascher in July 1942. (*NO–402, Pros. Ex. 66.*) They were still collaborating with this admitted murderer and gave him the cover of their scientific reputation. Romberg received a medal for his work in the experiments on the recommendation of Rascher. (*1607–A–PS, Pros. Ex. 65.*) Rom-

berg was still supporting Rascher in September 1942 and was to have made an oral report to Milch on the experiments with Rascher. He wrote a memorandum on Rascher's behalf explaining that the report was not given because Milch was unable to receive them at the scheduled time. This same memorandum, signed by Romberg, proves that *he was anxious to continue high-altitude experiments with Rascher and asked for Milch's permission.*

He wrote:

"Oberstarzt Kalk stated that he was willing to report to the State Secretary (Milch) our wishes concerning the distribution of the report and the continuation of the experiments. * * * Oberstarzt Kalk had transmitted, still on 11 September, our wishes concerning distribution and confirmation of the experiments to the State Secretary. The State Secretary had approved the distribution schedule, and said that a continuation of the experiment was not urgent." (*NO–224, Pros. Ex. 76.*)

In the meantime, the murderous freezing experiments had been started with the Luftwaffe team of Holzloehner, Finke, and Rascher. Ruff, Romberg, and Weltz all heard the report of those experiments in Nuernberg in October 1942. (*NO–401, Pros. Ex. 93.*) Hippke himself wrote his special thanks to Himmler on 8 October 1942, and said: "When the work will need once more your sympathetic assistance, may I be allowed to get in touch with you again through Stabsarzt Dr. Rascher?" (*NO–289, Pros. Ex. 72.*)

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Analysis of the Experiments

The experiments at Dachau in the field of high-altitude research were conducted to determine human reactions to altitudes above 12,000 meters. The defendant Romberg stated that four series of experiments were conducted (*a*) slow descent without oxygen, (*b*) slow descent with oxygen, (*c*) falling without oxygen, and (*d*) falling with oxygen. (*NO–476, Pros. Ex. 40.*) The first two tests were designed to simulate descent with parachute open while the latter two a free fall from an airplane before the parachute opens. As pointed out in Dr. Rascher's first interim report on the experiments, an additional problem was to be solved, namely, the determination whether the theoretically established norms pertaining to the length of life of human beings breathing air with only a small portion of oxygen and subjected to low pressure correspond with the results obtained by practical experience. This interim report of Rascher's states as follows:

"2. Experiments testing the length of life of a human being above the normal breathing limits (4, 5, 6 km.) have not been con-

ducted at all, since it has been a foregone conclusion that the human experimental subject (Versuchsperson–VP) would suffer death."

The experiments conducted by myself *and Dr. Romberg* proved the following:

"Experiments on parachute jumps proved that the lack of oxygen and the low atmospheric pressure at 12 or 13 km. altitude did not cause death. Altogether 15 extreme experiments of this type were carried out in which none of VP died. Very severe bends together with unconsciousness occurred, but completely normal functions of the senses returned when a height of 7 km. was reached on descent. Electrocardiograms registering during the experiments did show certain irregularities, but by the time the experiments were over the curves had returned to normal and they did not indicate any abnormal changes during the following days. The extent to which deterioration of the organism may occur due to continuously repeated experiments can only be established at the end of the series of experiments. *The extreme fatal experiments will be carried out on specially selected VP's otherwise it would not be possible to exercise the rigid control so extraordinarily important for practical purposes.*" [Emphasis supplied.] (*1971–A–PS, Pros. Ex. 49.*)

Thus, it is clear that the experiments were planned and executed with the *intention* that some were to terminate fatally. This report covered the period up to the first week in April and mention of deaths and autopsies is made. This quite obviously was the instance when Romberg says he saw his first death and autopsy, although he tends to place the date as the latter part of April. (*NO–476, Pros. Ex. 40.*) If the experiments had been stopped there the lives of many subjects would have been saved.

The defendants argue that, while the experiments may have killed persons, they did not involve torture and pain. This is on the theory that the subjects lost consciousness before any sensation of pain. This anomalous defense is completely disproved by the photographic exhibits showing the expressions of pain of the subjects. (*NO–610, Pros. Ex. 41*) as well as the defendants' own report on the experiments. (*NO–402, Pros. Ex. 66.*) The reaction of one subject was described in terms such as "severe altitude sickness, spasmodic convulsions". In a self-experiment by Romberg and Rascher, the latter's reactions were described as follows:

"After 10 minutes stay at this altitude, pains began on the right side with a spastic paralytic condition of the right leg which increased continually as though Ra's [Rascher's] whole right side were being crushed between two presses. At the same time there were most severe headaches as though the skull were being burst apart. The pains became continually more severe so that at last

the discontinuation of the experiment became necessary." (*NO–402, Pros. Ex. 66.*)

There is no case on record where an experiment on an inmate was discontinued because of pain.

Ruff and Romberg take the position that they would be most unwilling to kill prisoners in the course of an experiment. They insist that their experiments with Rascher were concerned with the problem of explosive decompression and on parachute descent from high altitudes, whereas Rascher alone worked on sojourn or a more prolonged stay at high altitudes, and that it was in Rascher's experiments that prisoners were killed. This again is the artificial division of the experiments into the criminal and noncriminal which has already been proved to be spurious. But here again, the two self-experiments which Ruff, Romberg, and Rascher included in their joint final report as mentioned above *were experiments on prolonged stay at high altitude, a subject which they now claim was exclusively Rascher's.* The only reason that this experiment did not end fatally was the fact that it was interrupted in time because of intense pain. Moreover, on page 11 of the final report by Ruff, Romberg, and Weltz the following is said: "This is worthy of special attention because in this case a person has fully recovered mentally at an altitude of 8.3 km. (27,230 ft.), after 3 minutes of the most severe lack of oxygen, *while in altitude endurance experiments* at this altitude severe altitude sickness sets in after about 3 minutes." [Emphasis supplied.] (*NO–402, Pros. Ex. 66.*) Here, again, it is proved from their own report that Ruff and Romberg, as well as Rascher, were concerned with sojourn at high altitudes.

Experiments, in which prisoners were killed, are reported in Rascher's report to Himmler of 11 May 1942. (*NO–220, Pros. Ex. 61.*) Some prisoners were killed by keeping them at 12,000 meters without oxygen for 30 minutes; one was killed at 20,000 meters when exposed there for about 6 minutes without oxygen. These prisoners were autopsied to ascertain if bubbles of gas, called air embolism in Rascher's report of 11 May 1942, were present in the blood vessels of the brain and other organs when dissected under water. Some "Jewish professional criminals" who had committed "Rassenschande" (race pollution)* were killed for another reason:

> "To find out whether the severe psychic and physical effects, as mentioned under No. 3, are due to the formation of embolism, the following was done: After relative recuperation from such a parachute descending test had taken place, however before regaining consciousness, some VP's were kept under water until they died. When the skull and the cavities of the breast and of the abdomen had been opened under water, an enormous amount of air embolism

*Jews who had had sexual intercourse with German women with their consent.

was found in the vessels of the brain, the coronary vessels and the vessels of the liver and the intestines, etc." (*NO–220, Pros. Ex. 61.*) It should be noted that these murders were committed in connection with the *parachute descending tests*, not prolonged stay at high altitudes, and this was the very subject being studied by Ruff and Romberg. Romberg testified that he was present at the death of three of these prisoners, one in April and two in May 1942, and witnessed an autopsy of one, in which gas bubbles were present in the blood vessels of the brain. He reported these deaths to Ruff. (*NO–476, Pros. Ex. 40.*) Neff testified Romberg was present in five cases where fatalities occurred (*Tr. pp. 619, 692*) and Romberg admitted that he knew that five to ten other experimental subjects were killed while he was not present. (*NO–476, Pros. Ex. 40.*) Neff stated that Romberg actively participated in the majority of the experiments. He observed the experiments, took notes, and studied the electrocardiogram and thus was able to determine when an experimental subject in the chamber was about to die. (*Tr. p. 651.*)

It is incredible that Dr. Ruff was not informed regarding the finding of bubbles in the blood vessels of the brain since such observations in human beings who have died following too rapid atmospheric decompression is a very, very unique event, though bubbles had been observed many times prior to 1942 in the blood vessels of laboratory animals. It is inconceivable that Dr. Ruff, or anyone else in the field of aviation medicine, had not heard of the bubble theory of the cause of joint pains, coughing, blindness, or paralysis, or the symptoms of the pressure drop sickness, which may occur on exposure to high altitude, since this theory was well known in literature and text books of aviation medicine available since 1938. How else would Rascher have had occasion to look for the bubbles? He either learned of the theory during a course in aviation medicine or was told about it by Ruff and Romberg, who knew much more than Rascher about aviation medicine.

It is fantastic that Ruff, Romberg, and Rascher did not have in mind the observations of bubbles in the blood vessels of the murdered prisoners, when, in the final joint report of 28 July 1942, they wrote:

> "In spite of the relatively large number of experiments, the actual cause of the severe mental disturbances and bodily failures (paralysis, blindness, etc.) attendant upon post-hypoxemic twilight state remains something of a riddle. It appeared often as though the phenomena of pressure drop sickness had combined with the results of severe oxygen lack". (*NO–402, Pros. Ex. 66.*)

It has been the theory for some time that the symptoms associated with decompression or pressure-drop sickness may be due to the formation of gas bubbles (air embolism) in the blood vessels of the brain or in the regions of the joints or in the blood vessels of the lungs.

When the bubbles collect in the blood vessels of the brain, they are supposed to cause a physical or mental disturbance or paralysis. When the gas bubbles collect in the region of the joints, they are supposed to cause pain in the region of the joints. When the bubbles collect in the blood vessels in the lungs, they are supposed to cause the chokes or attacks of coughing. That has been a theory that has been held for some 15 or 20 years, and an expert in the field of aviation medicine could not have been unaware of it. (*Tr. pp. 9098–9.*) Since Rascher had observed bubbles as is described in his report of 11 May 1942, and since Ruff and Romberg had complete knowledge of the deaths, obviously these important findings of Rascher on air embolism did not escape the attention of Ruff and Romberg. It can only be concluded that these findings, which resulted from intentioned deaths, form the basis of the paragraph quoted above from the final report. Because of the nature of the subject matter, and a prior knowledge of the observations in the autopsies in the experiments, the ideas expressed in the paragraph quoted above cannot be separated from those in the Rascher report of 11 May. So testified the expert witness Dr. A. C. Ivy. (*Tr. p. 9151.*) All of this proves again that the testimony of Ruff and Romberg to the effect they had nothing to do with the so-called "Rascher experiments" is completely false. Even though deaths are not specifically mentioned in the joint report of 28 July, it is clear from Dr. Ivy's testimony that the findings in the death cases form the basis for a part of that report.

Ruff and Romberg would have the Tribunal believe that the experiments were completed and the chamber removed from Dachau by 20 May 1942. Since Romberg knew of and reported on the deaths to Ruff in April, there clearly was no excuse whatever to leave the chamber in Dachau for even another day. But according to their own story, it stayed until 20 May and Romberg saw two more men killed. They attempted to gloss over their criminal participation in these later murders by saying that the chamber could not be moved without orders from the Luftwaffe Medical Inspector. Be that as it may, such a technical violation of moving the chamber without orders is hardly comparable to the crime of leaving the chamber for further experiments by a man whom they admit they knew to have been a murderer. Indeed, any decent superior who was not himself a party to the crime, as they actually were, would undoubtedly have court-martialed Ruff and Romberg for leaving the chamber there, not to speak of Rascher.

But it is not true that the chamber left Dachau on 20 May 1942 as they perjuriously stated. They seized upon this date from Milch's letter to Wolff stating that the chamber was needed elsewhere. (*343–A–PS, Pros. Ex. 62.*) There clearly was an intention to transfer the chamber, but it was *not* in fact moved and this was undoubtedly due

to the joint efforts of Ruff, Romberg, and Rascher. Romberg was anxious to continue his criminal work with Rascher in September 1942 as has been pointed out above. In any event, on 4 June 1942, Milch authorized retention of the chamber in Dachau *for two more months.* (*NO–261, Pros. Ex. 63.*) On 25 June this order was passed on to Rascher by Heckenstaller, adjutant to Wolff, reference being made to a letter of 5 June from Rascher. (*NO–284, Pros. Ex. 64.*) These documents prove beyond doubt that the chamber remained in Dachau until July 1942.

The testimony of Neff not only proves that the experiments continued until July 1942 but also that Romberg was presented with a remarkable opportunity to discontinue the experiments without any trouble whatever. Neff stated that Romberg told him in the latter part of May that the chamber was to be transferred (undoubtedly as a result of Milch's letter of 20 May which was later countermanded) and, under the impression that Romberg might not be in favor of any continuation of the experiments, he sabotaged the chamber by breaking a glass barometer in order to make sure the chamber would be sent away. Instead of seizing this opportunity for stopping the experiments by removing the damaged chamber, Romberg rushed to Berlin, obtained spare parts, and in a matter of 2 weeks had the chamber functioning again for more murderous experiments. (*Tr. pp. 623–4.*) The chamber was used for another 3 weeks after it was repaired and five persons were killed on the last day of the experiments. (*Tr. p. 624.*) Although the defense attacked Neff on cross-examination concerning the sabotage of the chamber (*Tr. p. 663*), by the time Romberg took the stand they admitted the chamber was damaged but moved the whole incident to the month of May instead of June. (*Tr. p. 6905.*) This was obviously done on the theory that the Tribunal could be deceived into believing that very few experiments could have been conducted in May since they contend the chamber was moved on 20 May. But the documents and Neff's testimony clearly established that the chamber was there until July. Moreover, it matters little whether the chamber was damaged in May or June. Romberg in no event took the opportunity to stop the experiments on the ground of unavailable spare parts, although this opportunity would not have been needed if he really wanted to discontinue them. He need have done nothing more complex than to have sent the chamber away or left himself.

Ruff's and Romberg's guilt is beyond doubt when we consider that they did not take the opportunity to withdraw after the first death of an experimental subject in April 1942. Romberg admitted his presence at the death of this first subject. (*Tr. p. 6924.*) He was studying the electrocardiogram at the time of the experiments (*NO–476, Pros. Ex. 40*), but he would have the Tribunal find that he was an

innocent bystander who was privileged to do nothing. This was just another "SS experiment" according to Romberg. But Romberg admitted that he was working the electrocardiogram and was studying the point of light that follows the heart. When he saw that the critical point had been reached, he said he spoke to Rascher (*Tr. p. 6927*), but to no avail as Rascher continued the experiment until death resulted. This testimony of assumed impotence when a man was slowly killed before his eyes is an insult to one's intelligence. Romberg was the senior scientist and was fully aware of the fact that the danger zone had been reached as he was thoroughly familiar with the equipment being used. He has outlined for the Tribunal the proximity of the electrocardiogram to the controls of the chamber (*Tr. p. 6929*), and it is inconceivable that Romberg could not have taken the necessary action to have spared this experimental subject's life if he had so desired. The inescapable fact is that these deaths were part of the plan and Romberg not only had no desire to interfere but was very much interested in the cause of death through air embolism.

Assuming that Romberg was opposed to this fatal experiment, it is impossible to understand why he did not take the appropriate action to have Rascher prosecuted for this premeditated murder. The fact of the matter is that Romberg merely reported this death to Ruff (*Tr. p. 6932*), and no appropriate action was taken by Ruff either. Although alleging an objection to this fatality, Romberg admits participation in the autopsy of the unfortunate victim. This autopsy clearly bore out the fact that air embolism was the cause of death. When asked if he participated in this autopsy, Romberg answered, "Yes, I watched one autopsy. That was my duty." (*Tr. p. 6924.*) Romberg testified that he saw two other deaths and that air embolism also caused those. (*Tr. pp. 6925–6.*)

Ruff and Romberg lay great stress on the point that deaths are not mentioned in the joint report of 28 July 1942 of Romberg, Ruff, and Rascher. This, of course, is a very understandable omission, but it in no way proves that they are not responsible for those murders. Indeed, the joint report of 28 July 1942 (*NO–402, Pros. Ex. 66*) is identical with Rascher's report of 11 May 1942 (*NO–220, Pros. Ex. 61*) except for the specific mentioning of the deaths. For example, paragraph 3 of the Rascher report is a summary of part III–1, pages 3 to 18, and part III–2, pages 18 to 19 of the joint final report. Paragraph 4 of Rascher's report contains results set out in part III–4, pages 21 to 22, of the joint final report. Paragraph 5 of Rascher's report is identical with part III–3, pages 19 to 21, of the joint final report. Paragraph 6 of the Rascher report where the pervitin experiments are mentioned is alluded to in the pervitin data in the joint final report on page 18.

Paragraph 7 of the Rascher report contains the conclusions incorporated in the joint final report and gives details on the gas bubble data which are referred to on pages 16 to 18 of the joint final report, but from which is omitted reference to the autopsy results of the murdered prisoners. These various passages were compared by the witness Ivy and he concluded that they refer to the same subject matter. (*Tr. p. 9097.*)

Ruff attempts to explain the omission of mention of deaths in the final report on the ground that the deaths did not occur as a result of their experiments on rescue from high altitudes (i. e., parachute descending tests), but rather in Rascher's own experiments with which they had nothing to do (i. e., prolonged stay at high altitudes). (*Tr. p. 6592.*) It has already been proved that the basic premise to this spurious argument is completely false, since Ruff and Romberg themselves were not interested in sojourn at high altitudes. The self-experiments of Romberg and Rascher were just such tests and they are specifically mentioned in the final report. These involved a stay of 30 to 40 minutes at altitudes between 12 and 13.5 kilometers (39,400 to 44,290 feet). But so also is the minor premise wrong. *Deaths were deliberately brought about in the course of the parachute descending tests.* In these tests it had been noted that the subjects suffered from spasmodic and clonic convulsions together with paralysis. This is reported in paragraph 3 of Rascher's memorandum of 11 May 1942 on the experiments and also on pages 13 through 18 of the final report. In his memorandum, Rascher stated:

> "To find out whether the severe psychic and physical effects, as mentioned under No. 3, are due to the formation of embolism, the following was done: After relative recuperation from such *a parachute descending test* had taken place, however before regaining consciousness, some VP's were kept under water until they died. When the skull and the cavities of the breast and of the abdomen had been opened under water, an enormous amount of air embolism was found in the vessels of the brain, the coronary vessels, and the vessels of the liver and the intestines, etc." [Emphasis supplied.] (*NO–220, Pros. Ex. 61.*)

This proves beyond any doubt that murders were committed in the parachute descending tests of Ruff, Romberg, and Rascher. Ruff again tried to deceive the Tribunal by testifying that it was substantially impossible for air embolism to form in parachute descending tests. This is obviously disproved by the statement of Rascher quoted above and by the reference in the final report, already mentioned above, which alludes to this same problem. But the lie was also squarely nailed by the expert witness Ivy, who testified that it was

possible for air embolism to form in subjects who were at altitudes above 12,000 meters (39,400 feet) only 3 minutes, that is to say, subjects who bailed out at 15,000 meters. Bubbles may form as low as 30,000 feet. (*Tr. p. 9102.*) Thus, the defense that no deaths occurred during the experiments concerning rescue from high altitudes is completely spurious.

Moreover, it should be noted that while the joint final report does not describe any of the death cases, it also *does not deny* that deaths occurred. On page 25 of the original, it says: "In conclusion, we must make it particularly clear that, in view of the extreme experimental conditions in this whole experimental series, no fatality and no lasting injury *due to oxygen lack occurred.*" (*NO–402, Pros. Ex. 66.*) The deaths described in Rascher's report quoted above *were not due to lack of oxygen* but were deliberate killings to investigate air embolism.

But even the experiments which Ruff, Romberg, and Weltz admit were planned and performed under their responsibility were highly dangerous to the life and health of the subjects. Both Ruff and Romberg agreed that 12,000 meters was the upper limit of safety and that experiments of the type they performed above that altitude were hazardous. The description of the reaction of the subjects as set forth in the final report proves that the subject suffered severe convulsions and prolonged periods of disorientation. The expert witness Ivy pointed out that the experiments described in the final report of Ruff, Romberg, and Weltz were highly dangerous for the following reasons:

> "I consider them to be dangerous because of the prolonged period of unconsciousness to which the subjects were exposed. For example, they were unconscious for periods of around twenty minutes, and they were disoriented for periods of around thirty to ninety minutes. That is a dangerous period of oxygen lack to which to expose the brain. I agree that * * * the electrocardiogram demonstrates that the heart of these subjects was not momentarily affected or significantly affected by this prolonged exposure to oxygen lack. But these experiments do not show, or the results do not show that the cells of the brain were not injured. One of the higher faculties of the brain is learning, and we know that the learning process is rather sensitive to oxygen lack, and the only way to check against the possibility of damage of the learning mechanism by prolonged exposure to oxygen lack would have been to have determined the I. Q. of these subjects or the ability of these subjects to learn before and after the subjects were exposed to such a prolonged period of oxygen lack." (*Tr. p. 9036.*)

Dr. Ivy testified that the experiments described in the final report had reached the physiological limit and that work was being done in a

very dangerous and hazardous zone as far as the welfare of the experimental subjects was concerned. He said that he should be reluctant to perform such experiments even on himself and that he would prefer to depend upon that degree of accuracy which could be obtained from calculations of the results of animal experiments. (*Tr. pp. 9081, 9112, and 9197.*)

Finally it should be noted that the experiments were neither necessary nor a scientific success. "Necessity of the State" has been much used by the defendants as if it were a defense. This is clearly unfounded even though necessity, military or otherwise, be assumed. It is to be supposed that each defendant *thought* there was some necessity to what he was doing. This is no defense. Rascher thought the same thing. It was deemed necessary to incarcerate hundreds of thousands of persons in concentration camps. It was deemed necessary to murder millions of Jews. The slave labor policy was bottomed on necessity. If that is a defense, then these trials lose all meaning. But, on the other hand if it is proved that these experiments were not necessary, not of scientific value, then it makes the guilty even more guilty. The brutal sacrifice of human life was to no avail. And such was the case here. Hippke, Chief of the Medical Service of the Luftwaffe, when writing his thanks to Himmler on 8 October 1942 said the following:

> "It is true that no conclusions as to the practice of parachuting can be drawn for the time being, as a very important factor, namely, cold has so far not yet been taken into consideration; it places an extraordinary excess burden on the entire body and its vital movements, so that the results in actual practice will very likely prove to be far more unfavorable than in the present experiments." (*NO–289, Pros. Ex. 72.*)

When asked his opinion concerning the necessity for the typical experiment described on page 13 of the final report of Ruff, Romberg, and Rascher, the witness Ivy testified:

> "I do not believe that it was necessary to do this experiment in order to determine the equipment to supply aviators who have to bail out of an airplane at high altitude." (*Tr. p. 9035.*)

The witness Ivy stated further that the information which was obtained by these experiments on concentration camp inmates could have been obtained from animals as indicated by the results of Lutz' and Wendt's animal work referred to in the final report. The differences in the reactions of human subjects and animals, as reported by Lutz and Wendt, were not sufficient to warrant the carrying out of these hazardous experiments on human beings. (*Tr. p. 9036.*)

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c. Selections From the Argumentation of the Defense

*EXTRACTS FROM THE CLOSING BRIEF FOR DEFENDANT RUFF**

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Certainly Dr. Ruff gave his agreement and approval to high-altitude tests with a low-pressure chamber of the Reich Air Ministry being performed by his collaborator of many years, Dr. Romberg, together with Stabsarzt Dr. Rascher, in a concentration camp, using concentration camp inmates as experimental subjects. He agreed after the performance of urgent experiments in the Dachau concentration camp had already been agreed upon in principle and approved by Professor Dr. Hippke and Professor Dr. Weltz.

Therefore, the question arises whether these high-altitude experiments were already illegal for the reason that they were performed on concentration camp inmates.

This question must be denied for only such inmates were used for the experiments as had volunteered for them, or who at least were regarded by Ruff as volunteers and could be regarded as such in view of the whole situation, and no one could reproach him for having erred in this respect because other persons had perhaps deceived him about these facts.

There are, however, some witnesses who apparently maintain that the prisoners used in the Ruff-Romberg experiments were not volunteers. Above all the witnesses Vieweg and Neff are of this opinion.

During his direct examination on 13 December 1946 the witness Vieweg mentioned a series of various experiments which were performed at the Dachau concentration camp. Referring in particular to the high-altitude experiments there, which alone can be considered in the indictment against Dr. Ruff, he states firstly that high-altitude experiments with the low-pressure chamber were performed on 10 patients; "for these experiments frequently patients and also male nurses were used who during the experiments were seen in the corridor of the adjacent hospital ward."

By this Vieweg apparently wanted to point out that these "patients" and "also the nurses" were not volunteers. These 10 "official experimental subjects" had been well fed and supplied with smokes, but in addition to these 10 so-called "exhibition patients", a large number of people had been selected from the camp who were again and again sent to the high-altitude experiment institute. That happened to a block leader who probably had pneumonia a few hours later and ended in the sick bay mortuary. The same happened in the malaria department of the witness Vieweg. One day a patient who had some

*Very similar arguments were advanced by counsel for defendant Romberg.

differences with Zill, the leader of the camp, concerning protective custody, was sent to the experimental institute, and he (Vieweg) found him in the mortuary the next day. He (Vieweg) knows by hearsay that, "a great number of patients who took part in these experiments died, and ended up in the sick bay mortuary." (*German Tr. p. 476.*)

Between the lines of this rather obscure and vague statement one may read that, according to Vieweg's statement, these further experimental subjects, and especially those who had died during the experiments, did not belong to the 10 "official experimental subjects" and had not been volunteers. However, in the direct examination by the prosecution the witness Vieweg did not express himself explicitly about this alleged compulsion of the so-called experimental subjects.

During the cross-examination by the defense counsel of Dr. Romberg, the witness Vieweg explained his expression, the "10 exhibition patients". (*German Tr. p. 485.*) The 10 selected patients who were used for the high-altitude tests had been accommodated in a special room and had been well nourished; they had been exhibited, and they had been presented to Himmler during one of his visits. Himmler made them big promises; if they survived, they would be set free * * * these 10 patients had been drawn into the experiments * * * they had told him (Vieweg) that they were very exhausted by the whole affair, but as far as he could remember "they all survived" (*German Tr. pp. 486, 489*). On being questioned the witness Vieweg repeatedly stated (*German Tr. pp. 486, 487, 489*), that as far as he could remember Dr. Rascher had carried out the experiments himself. The only thing Vieweg could state about participation of "Luftwaffe officers" in these high-altitude experiments, was that some Luftwaffe officers "had also been there". But he could not say anything about the actual participation of the Luftwaffe officers. From the description on page 501 (German Transcript) these two gentlemen of the Luftwaffe certainly were not identical with Ruff and Romberg. He himself (Vieweg) had only talked with these 10 official experimental subjects, the so-called "exhibition patients", but not with any of the other experimental subjects. He himself had never observed that these other prisoners were used for high-altitude tests, but he had been told about it frequently. Vieweg repeatedly stated that the 10 official experimental subjects had still been alive at the end of the experiments (*German Tr. p. 489*), that no deaths had occurred among them.

So much for the statement of the witness Vieweg. It is, of course, unreliable because it does not establish a clear distinction between the high-altitude experiments authorized by Ruff and carried out with the cooperation of Dr. Romberg, and other experiments in the low-pressure chamber which Rascher undertook by order of Himmler, without

the authorization or previous knowledge of Dr. Ruff and without the cooperation of Dr. Romberg. This distinction, which is of decisive importance in judging this case, only appears in Vieweg's statement insofar as the 10 official experimental subjects (the so-called "exhibition patients") were exclusively used for the first experiments (Ruff-Romberg-Rascher), whereas other prisoners were used for the other experiments (by Rascher alone). Of course, the significance of this distinction was not clear to Vieweg at that time and could not be observed by him because Vieweg did not know anything at all about Dr. Ruff's activity and since he did not know anything at all about the agreements which had been reached between Dr. Ruff and Dr. Rascher.

Apart from these obscurities one has to regard the statement of the witness Vieweg with the greatest reserve for another reason. Vieweg is the witness who, with unusual unscrupulousness, committed plain perjury in the sessions of 13 and 16 December 1946. He tried first (*German Tr. p. 474*) to give the impression that he had been sent to the concentration camp without any reason, that he had been committed for "political protective security". This representation of the witness Vieweg is completely in accordance with his previous behavior, because formerly he had generally pretended to be politically persecuted—an innocent man who had been thrown into a concentration camp without ever having learned the reason. Under this false pretense he offered himself as witness for this trial, and because of this misrepresentation he was presented as a witness by the prosecution whom he had deceived. However, during cross-examination, Vieweg had to admit that in 1934 he was sentenced to 4 and to 6 years' penal servitude for forgery of documents and fraud, that is to say for common crimes which, as a rule, have nothing to do with politics. On repeated questioning the witness Vieweg stated again and again (*German Tr. pp. 483 ff.*) that he could not remember having received any other previous conviction in addition to those 4 and 6 years' penal servitude. He insisted on this statement, even though he had been repeatedly reminded that he was under oath. His stereotype phrase was, he could not remember; he even emphasized that he had deposed to this or that under oath (*German Tr. p. 484*), and he continued to insist on his statement, even though he was told that his previous convictions could be determined without difficulty since his files had been sent for.

Now, let us compare the testimony given under oath with the list of convictions of the witness Vieweg, which was submitted as Document Ruff 24.

Besides the 4 and 6 years of penal servitude which he admitted, the witness Vieweg received in reality not less than 6 prison terms prior to 1934, among them 5 years' penal servitude and 5 years' loss of civil rights for repeated grave thefts.

This extract from the penal register shows why the witness Vieweg had such a "bad memory". He never was politically persecuted, as he pretended to be, but he is the type of incorrigible professional criminal who could not be changed or educated even by the most severe penalty. If anybody deserved to be sent to a concentration camp it was this Vieweg. But even the 5 years he spent in the concentration camp did not help. For now he is again in prison, in Bamberg, where charges were brought against him on 5 March 1947 at the District Court for forgery of documents and fraud, as well as for five cases of repeated theft, for attempted abortion, for active bribery, and for black market dealings.

This incorrigible professional criminal allowed himself to be presented here as a star witness for the prosecution against an honorable, blameless citizen, as which Dr. Ruff emerged in the course of this trial. Can the Court base its verdict on the statements of a person like Vieweg, who on top of everything shamelessly lied to the Tribunal and committed the worst possible perjury.

The other witness presented by the prosecution for the Dachau experiments is Walter Neff.* He is at present in the Dachau camp for war criminals and will soon have to stand trial himself before the American Tribunal, for experiments in which he took an active part. This witness Neff, who not only continuously participated in the successful experiments of Dr. Romberg, but also in the inhuman freezing experiments, in the deadly "severe experiments" of Rascher, and who cooperated in many other cruelties, is, I think the last who should appear as a witness against a man like Dr. Ruff, or condemn him.

Let us recall what this witness said about himself at the close of his testimony. According to his own admission, he produced three prisoners (a certain Robert Wagner, a prisoner named Hutterer, and a man named Sammendinger) for deadly experiments, on his own initiative without being ordered to do so. According to his own testimony, he delivered these three people over to a violent death; he murdered them. It is characteristic of his ethics that he even boasted of this act here in the courtroom! (*German Tr. pp. 737–739.*) That does not trouble his conscience, as he himself declared under oath (*German Tr. p. 737*); he is just the type of those inmates who, to quote his own words "were often worse than the SS in their cruelty and brutality". (*German Tr. p. 737.*) That is the second witness who was presented against Dr. Ruff by the prosecution. The one, an unscrupulous swindler, an incorrigible habitual criminal, an old jailbird; and the other a murderer many times over whose hands are stained with much blood—a murderer who boasts that he has no

*The witness Neff was called to testify as a Tribunal witness and not as a prosecution witness.

conscience. Is the Court to lend credence to such people? These witnesses quite obviously believed they would be able to elude the hangman's noose by saddling other defendants with untrue, fabricated statements.

All those facts are a warning that Neff's testimony, too, must be regarded with considerable caution. At any rate, his testimony has a certain importance for Dr. Ruff inasmuch as Neff (*German Tr. p. 652*) confirms that Dr. Ruff was in Dachau only on one single occasion during the high-altitude experiments. Thus the truth of Dr. Ruff's own testimony has been established. Furthermore, the witness Neff, states in his testimony of 17 December 1946 that "10 prisoners, designated as permanent experimental subjects, were taken to the station and told that nothing would happen to them; they were especially assured of this". (*German Tr. p. 711.*) The witness Neff then told of the killing of the 16 Russians who were sentenced to death and who were murdered by Dr. Rascher. However, according to Dr. Neff, this act was carried out by Dr. Rascher together with the two members of the SS, while Dr. Romberg was not even present on that day. (*German Tr. pp. 654, 656.*) Special importance must be attached to the witness Neff's further assertion regarding a Jewish tailor who worked in the sick bay. Neff called Dr. Romberg's attention to the fact that this man was not sentenced to death, and Romberg thereupon immediately went to Rascher with Neff in order "to set matters straight". Upon intervention by Dr. Romberg, Rascher then actually sent the tailor back; when the accompanying SS man again threatened the Jew, Rascher again intervened and "immediately had the man (the tailor) brought to safety in the bunker". (*German Tr. p. 655.*) Again, in the case of a second inmate, a Czech, who wrongly and without his consent had been brought in for the experiments, Dr. Romberg, according to Neff's report, intervened on behalf of the prisoner, with the result that Dr. Rascher entered a complaint against the criminal SS man with the camp commander, Piorkowski. Thereupon, the SS man was immediately transferred to Lublin. In that way the Czech was saved from certain death by Dr. Romberg.

This testimony of the witness Neff plays an important part in answering the question whether or not the experimental subjects used were volunteers, and also, what Dr. Romberg, and therefore Dr. Ruff, knew about them and what Dr. Romberg's attitude was toward this question. In this connection, Neff said: "Romberg, Ruff's deputy, therefore, did not want any dangerous experiments. He tolerated no murder and considered only experiments with volunteers."

However, the further assertions of the witness Neff suffer from the same shortcomings as those of the witness Vieweg; for Neff also did not know that only part of the high-altitude experiments in Dachau were carried out with the approval of Dr. Ruff and Dr. Romberg; nor

did Neff have any knowledge of the agreements made by the participating physicians, and he therefore treated all high-altitude experiments equally, without distinguishing whether or not Dr. Ruff had agreed to them that there "were 180 to 200 inmates who participated in high-altitude experiments" (*German Tr. p. 656*) and that "during the altitude flight experiments, 70 to 80 people lost their lives." These figures may be correct, but they refer to the whole of the Dachau low-pressure chamber experiments; that is, they also include the experiments which Dr. Rascher made on his own authority, without the prior knowledge of Dr. Ruff, and in which alone all the fatalities occurred; while in the legitimate experiments—that is, those approved by Dr. Ruff—no fatality occurred at all. Of course, Neff could not know all this. As he said himself it was impossible for him to distinguish "from whom the order came for the individual experiment, and in whose interest the experiment was made." (*German Tr. p. 715.*)

The same shortcoming is demonstrated by Neff's testimony with regard to the nationality of the experimental subjects (*German Tr. pp. 656, 657*) and the manner of their "selection". However, Neff's testimony does show that the selection of the experimental subjects was carried out in two different ways: For the "*dangerous experiments*" Rascher ordered the subjects through the local headquarters, and they were produced by the SS; they were therefore people condemned to death (*German Tr. p. 663*), for the "*serial experiments*". On the other hand, and "for most of the other experiments which took place, the people were brought to the experimental station from the blocks, that is, from the camp" (*German Tr. p. 657*) by the block leaders. (*German Tr. p. 663.*) These "serial experiments" were obviously the experiments approved by Ruff, and Neff expressly establishes that "*volunteers reported for these experiments*"! (*German Tr. pp. 657, 712.*) He even gives the reasons why the prisoners volunteered: As Rascher, and Himmler too, had promised various inmates that, "if they participated in the experiments, they would be given a better labor assignment", and as Himmler promised that they might even be released, volunteers reported to Rascher on their own initiative as he went through the camp, without any special efforts being necessary to find volunteers (*German Tr. p. 657*).

There can be no doubt that these volunteers, estimated by Neff to number about 10, are identical with the 10 "official experimental subjects" or "exhibition patients" mentioned already by the witness Vieweg, and it is noteworthy that Dr. Ruff, too, in his testimony always spoke of 10 or 12, or at the most 15 persons from the very beginning (of course he did not count them himself), who were regularly called in for the high-altitude experiments, and whom he saw himself when he was once present to observe and check the experiments in Dachau. This number Dr. Ruff had mentioned at a time when Neff's and

Vieweg's testimony was not yet available. He therefore could not have anticipated that these witnesses would confirm his figures as correct.

To be sure, the witness Neff testified in another place (*German Tr. p. 666*) that the first 10 experimental subjects were not volunteers. But this statement is obviously in direct contradiction to his other testimony which, in the last analysis implied—and could not be interpreted otherwise—that the so-called "10 official experimental subjects" were those prisoners who had voluntarily offered themselves, who were given all possible privileges in return, who were promised rewards for their service by Rascher as well as by Himmler, and who were repeatedly reassured that nothing would happen to them during the experiments. This whole presentation would be incomprehensible if one were to assume that these 10 persons were involuntary subjects as well, that they were simply ordered to take part in the experiments, forced to participate, for them all this would not have been necessary at all, since at that time nobody in a concentration camp would have thought of troubling himself about these people, if they had been forced against their will to take part in the experiments.

In a concentration camp, according to the opinion of Himmler and his men, 1,000 people were of no consequence. Therefore, if efforts were made to obtain these inmates for the experiments, and to get them willingly, if even a Himmler found kind words to say to them and promised them rewards, then as we know today, this can only be explained by the assumption that even in concentration camps, for some reason, it was desirable to obtain voluntary subjects for the experiments and to induce them to go through the experiments voluntarily. This assumption is not refuted by the contrary assertion of Neff (*German Tr. p. 666*). For 1½ days, during his examination on 17 and 18 December 1947, Neff did not know that these first 10 experimental subjects had not been volunteers. For 1½ days he did not dare to make such an assertion here in the witness box, and only during the cross-examination did he finally go so far as to make this assertion, thereby completely overthrowing his previous statements.

This allegation of the multiple murderer Neff now stands, however, completely isolated. There can be no doubt that, if these statements by Neff were true, it would have been easy for the office of the public prosecutor to produce numerous other witnesses who, likewise, had been inmates of the concentration camp at Dachau, who had perhaps experienced these experiments themselves, or who had spoken to subjects of these experiments or had even observed the experiments. However, not a single outsider, not a single incontestable witness has been produced, although half a year has elapsed since the days when, here in the courtroom, one could not fail to realize to what an unreliable and untrustworthy class persons of the caliber of Vieweg and

Neff belong. This fact very strongly indicates that obviously no other witnesses are available, or could be made available, who could confirm that the experimental subjects who were used in the Ruff-Romberg altitude tests were not volunteers. Let the fact be mentioned here, for the sake of comparison, that in the case of the Gebhardt sulfanilamide operations for example, half a dozen incriminating witnesses were brought from Poland and Russia and were interrogated here as witnesses. Why was not a single trustworthy witness produced from among the Dachau experimental subjects and placed in the witness box? Because no one could be found who could confirm the untrue allegations of a Vieweg and a Neff. On the other hand, during the trial, a whole series of persons who deserve a great deal more belief than Vieweg and Neff affirmed with certainty that all the experimental subjects in the Ruff-Romberg experiments were volunteers, and that from the very beginning the indispensable condition which was demanded and assured was that the subjects would be voluntary.

The witness Dr. Lutz for example, who was introduced by the office of the public prosecutor and therefore recognized by it as a credible witness, confirmed here on oath, "it was a tacit assumption that the criminals would volunteer"; and he added that he could almost say that, in a way, a favor was being conferred upon the criminals, because "they were given a chance of pardon by participating in the experiments," and it is significant that this witness deposed further: "subsequently, we were very much surprised when, probably during the later stages of the experiments, as far as I recall now, no further mention was made of it," namely, of the fact that only volunteers were to be used for the altitude experiments (*German Tr. p. 320*).

These depositions by the witness Dr. Lutz conform in every respect with the general impression received from all the pertinent descriptions. At first, only the altitude experiments approved by Dr. Ruff regarding the problem of "rescue from high altitudes" were carried out. These experiments were not dangerous as proved by their successful outcome; the inmates volunteered for them. Gradually, however, Rascher misused more and more the presence of the chamber in order to conduct his arbitrary experiments on Himmler's orders for entirely different problems, namely, to conduct his notorious "difficult experiments" which had numerous fatal results. These were Rascher's more cruel, painful experiments; naturally, no more volunteers reported for these because word was passed quickly through the camp that the experiments which Rascher himself conducted were dangerous, while the mere presence and cooperation of Dr. Romberg gave assurance to the inmates that his experiments were conscientiously conducted and were not dangerous.

Other witnesses also, not named by Dr. Ruff, have confirmed that the experimental subjects for the Ruff-Romberg high-altitude experiments were voluntary, namely, the witness Dr. Hielscher (*German Tr. pp. 6025–26, 6041, 6062*). Testimony on similar lines is given by the codefendant Sievers (*German Tr. pp. 5471, 5881*); and Dr. Hippke (*German Tr. p. 793*) "Prisoners who might volunteer"; (*German Tr. p. 795*) "these persons had to volunteer for the experiments." Also the witness Karl Wolff, (*Ruff 21, Ruff Ex. 20*) "volunteer concentration camp inmates who were to be given compensatory privileges * * * the inmates, about 10 in number, appeared quite relaxed and, in their turn, willingly entered the low-pressure chamber which had been driven up * * * the inmates reported to Himmler, in my presence, that in this manner they could at least voluntarily * * * give a proof of their genuine good will * * * I never learned through Himmler, nor, as far as I remember, by any other means that later low-pressure chamber experiments * * * took place on a nonvoluntary basis * * * I only knew about voluntarily low-pressure chamber experiments and these were made, without doubt, on a voluntary basis." Finally, the witness Herbert Wilschewske (*Ruff 11, Ruff Ex. 9*).

While the previous witness Wolff was only present for 1 day during the experiments, the witness Wilschewske, during the 2 years he spent in the concentration camp, spoke repeatedly to inmates who "had volunteered for the medical experiments", and who, by reason of his repeated conversations with the prisoners, could give the following as reason for the willingness to volunteer for experiments "they could earn thereby their own liberty and rehabilitation as well as privileges for their family." The witness Wilschewske is certainly an absolutely reliable witness with regard to his statements. He is a Polish Communist, served 2 years in Dachau concentration camp for this, and was proved to be only a political prisoner.

If one considers all these statements by witnesses, which certify that the experimental subjects in the Dachau high-altitude experiments of Drs. Ruff and Romberg were volunteers, it cannot be doubted that the concordant statements by Dr. Ruff, Dr. Romberg, and Dr. Weltz were absolutely true. They are defendants, it is true, but from all sides testimony is given of their irreproachable professional integrity. Although they are now sitting in the dock, their precise and clear statements deserve far more belief than the changing and contradictory statements of a habitual criminal who has committed downright perjury in this Court, or of a murderer who is actually more deserving of a place in this dock than these defendants are.

The correctness of this conception is confirmed again on the one hand by the fact—already mentioned in another connection—that Dr. Romberg, as has been proved repeatedly, actively intervened and pre-

vented the use of experimental subjects for experiments by Rascher when he could see that nonvoluntary experimental subjects were to be used, and on the other hand, it was known that in the high-altitude experiments which Dr. Ruff had carried out with Dr. Romberg only voluntary experimental subjects could be used, and only with voluntary experimental subjects could the experiments succeed. The whole idea of this type of high-altitude experiment (the Ruff-Romberg method) was based on the theory that the experimental subject, immediately on recovering from the state of unconsciousness—the "high-altitude malady"—reaches up with his arm and pulls down the handle of the parachute, which in practice reduces the speed of the fall, insuring the flier of a smooth landing on the ground. All this necessitated active cooperation on the part of the experimental subject; one was absolutely dependent on his cooperation, otherwise each of these experiments would have been useless right from the start. Naturally, Dr. Ruff knew this, as did Dr. Romberg, and therefore for them the first and most important condition for each experiment of this type was that the experimental subject should be voluntary (*see Ruff's statement in German Tr. pp. 6638–40*). There are therefore also important inherent reasons why the statements by Ruff and Romberg are correct.

Actually the high-altitude experiments carried out in Dachau were successful. They were of considerable help in clarifying the problem of "rescue from great heights", and this was only possible when the experimental subjects themselves cooperated when they took part in the experiments voluntarily and took an interest in them. This was, by the way, also the reason why this type of high-altitude experiment could not be made with animals as experimental subjects, a fact which, for example, Ruff and Romberg pointed out in their summary report of 28 July 1942. (*NO–402, Pros. Ex. 66.*)

I come, therefore, to the following conclusion: There can be no doubt that the experimental subjects for the Dachau high-altitude experiments were volunteers, at least as far as the experiments authorized by Ruff are concerned. Whether volunteers reported for the special experiments continued by Dr. Rascher or whether the prisoners were forced into the experiments by Dr. Rascher does not need to be examined, because Ruff and Romberg did not participate in those experiments in any way. But even if any doubt as to their being volunteers were possible, it cannot be denied that Ruff and Romberg were firmly convinced that all their experimental subjects actually were volunteers. This was stipulated from the very beginning, and in all the discussions of Dr. Ruff with Hippke, Weltz, and the representative of the SS, Ruff was consequently convinced that only volunteers were actually concerned.

Dr. Ruff's conviction was strengthened through personal conversation with various prisoners on that day on which he himself went to Dachau to control the execution of the experiments and to ascertain that everything was carried out in a completely orderly manner. And finally in this connection it cannot be overlooked that Dr. Ruff, as he has stated under oath and as is confirmed by numerous affidavits, had never at any other time in his life worked with nonvoluntary experimental subjects. Just because he considered it indispensable for the success of the experiments that the experimental subjects were volunteers, that they themselves cooperate, Dr. Ruff never thought that the Dachau prisoners were not fully and completely in agreement with the experiments.

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It is obvious that the voluntary character of these experimental subjects, whether an actual fact or whether Dr. Ruff deluded himself into believing that this was the case, does not in itself relieve him of all responsibility. On the contrary, Dr. Ruff himself is of the opinion that, besides voluntariness, several other conditions would have to be fulfilled before the experiments and the way in which they were performed could be considered lawful:

1. The experiment would have to be *necessary*, particularly necessary in the interests of aviation and thus essential to the fatherland's war effort. This condition is obviously fulfilled. This is confirmed above all by the statement of the witness Dr. Hippke who stated that it was Dr. Ruff's duty to work on the research tasks assigned to him by the Medical Inspectorate of the Luftwaffe and to submit reports on them to the Medical Inspectorate.

The experiments carried out by Ruff were necessary, for "high-altitude experiments in particular have been undertaken intensively in America, too, because the question of pressure drop [Drucksturz] and the cabin development is of particular importance." (*Ruff 23*, *Ruff Ex. 22.*) Dr. Hippke developed this point of view not only during the trial but stated it very clearly in his letter to Himmler, dated as early as 8 October 1942 (*NO–289*, *Pros. Ex. 72*), where he writes: "These experiments represent a very valuable and important supplement. The fact that such an extreme deficiency of oxygen can be endured at all for some time is very encouraging for further research." Dr. Hippke's opinion about the necessity of the high-altitude experiments is therefore extremely important because Hippke was the highest official expert in that field in Germany at that time.

But most of all, the absolute necessity of Ruff's experiments is acknowledged by all experts who testified in this trial in connection with these problems. I recall, for example, the statements of the witness Dr. Scheiber that "at a later judgment of Dr. Ruff's scientific work, his name will be remembered together with the names of all

of those well-known scientific research workers who, by personal, devoted, and heroic effort, rendered immeasurable service to the advance of science and therewith to the welfare of humanity." Professor Dr. Strughold expresses himself in a similar way in his affidavit. He was chief of a German institute for aviation medicine for several years and writes concerning Dr. Ruff that "he (Ruff) can be considered as a man who surpasses by far many academically proficient and recognized scientists as far as scientific experience and scientific success is concerned." Of particular importance, however, seems to be the opinion of Dr. Grauer, who is at present in America as a research worker and experimenter in matters of aviation medicine.

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According to the opinion of the Air Force General, Adolf Galland, and the statements of all the other experts, it is an established fact that the Dachau experiments of Dr. Ruff and Dr. Romberg were absolutely necessary.

This necessity does not cease to exist because the people concerned realized that with this first series of experiments, carried out in Dachau in the spring of 1942, the problem in question (rescue from high altitudes) was not yet entirely solved. Ruff and Romberg pointed out in their final report of 28 July 1942, that the "danger of freezing has to be considered." On the basis of this final report the medical inspector, Dr. Hippke, later pointed out in his letter to Himmler of 10 October 1942 (*NO–289*, *Pros. Ex. 72*) that in the Dachau high-altitude experiments of Ruff and Romberg of spring 1942, "a very important factor was not yet taken into consideration, namely freezing." He remarked, however, at the same time that "the necessary supplementary work was started meanwhile." Hippke did not leave any doubt that this fact would not impair the value and the importance of the Dachau high-altitude experiments, which he stressed; for it is in the nature of such experiments that both parts of the problem, high altitude and freezing temperatures, cannot be dealt with simultaneously, but that at first only one part must be considered, then the other. This was Ruff's plan from the very beginning, and the special experiments with regard to the influence of freezing temperatures on descent from high altitudes were carried out according to plan in the Berlin institute of Dr. Ruff in the summer and fall of 1942. (Compare this with Dr. Grauer's affidavit of 23 January 1947.)

Another prerequisite for the justification of the high-altitude experiments undertaken by Ruff and Romberg lies in the requirement that the experiments should not be extended any further than is necessary for the solution of the problems presented. This requirement, too, was fulfilled by Dr. Ruff. It is confirmed by his own testimony (*German Tr. p. 6704*), as well as by the testimony of Dr. Rom-

berg (*German Tr. pp. 6879–80*), that Dr. Romberg was sent by Dr. Ruff to Dachau with a definite program which carefully outlined the kind as well as the extent of the experiments to be carried out. Only the problem of "rescue from high altitude" was to be investigated. Only experiments for this purpose were ordered by Dr. Ruff. Dr. Romberg was not allowed to undertake experiments for any other purposes, and the experiments were to be carried on only until either the problem was solved or its solution found impossible. Had Dr. Romberg not adhered to this program, which had been strictly outlined, had he carried out further experiments behind Dr. Ruff's back, the latter could in no case have been responsible for them. Since he was not told of such further experiments by Dr. Romberg, he could not stop them. However, it must be stated expressly that Dr. Romberg adhered to Dr. Ruff's orders; he did not carry out more extensive experiments than he had been permitted and had been ordered; this was done alone and solely by Dr. Rascher. The latter, however, was in no way subordinated to Dr. Ruff, nor to Dr. Romberg; moreover, he would certainly not have taken any orders from either of them. *The final report Ruff-Romberg-Rascher of 28 July 1942* (*NO–402, Pros. Ex. 66*) furnishes clear proof of the fact that Dr. Ruff and Dr. Romberg were at all times conscious of their duty to restrict experiments to the extent which seemed absolutely necessary in order to explore a problem which was all-important at the time and to carry out no experiments which could not be considered especially important and of great consequence.

Even the introduction to this report of 28 July 1942 is significant for the delineation of the tasks set for these experiments. It reads: "Considering the urgency of finding a practical solution to this important problem [the rescue of airplane crews from high altitude], particularly in view of the prevailing experimental conditions, it was necessary to forego for the time being a detailed clarification of the purely scientific problems involved." Here the basic tendency of all the experiments finds its clear expression. Only such practical requirements of aviation which could not be postponed during time of war should be solved, while investigations of purely scientific nature, without great practical significance, were to be excluded. This restriction of solutions sought demonstrates that the scientists in question (Ruff and Romberg) were not subject to the unbridled desire for experimentation which may be found in people of Rascher's type.

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Were the Ruff-Romberg high-altitude experiments in Dachau dangerous to life? If it is demanded that experiments on humans are carried out as humanely as possible, pain avoided wherever possible, and damage to health eliminated, it is obvious that deaths must

be prevented in every way possible. The conscientious research worker will always start from the standpoint that experiments can only then be carried out when, according to human estimation and the experience of science, death can in no way be expected. According to German Law (Article 216 of the German Penal Code) the intentional killing of a person would not be legalized through his agreement, not even at his expressed desire.

To this question the presentation of evidence has shown the following:

1. In the Summary Report Ruff-Romberg-Rascher of 28 July 1942, it is "expressly stated that in the whole series of experiments no death and likewise no permanent oxygen deficiency damage occurred." (*NO–402, Pros. Ex. 66.*) In direct contradiction to this appears to be, at least at first glance, the intermediary report which Dr. Rascher alone made on his experiments on 5 April 1942 to the Reich Leader SS Himmler (*1971–A–PS, Pros. Ex. 49*) and also the following secret report, which likewise Dr. Rascher alone sent to Himmler on 11 May 1942. (*NO–220, Pros. Ex. 61.*) These two special reports by Dr. Rascher prove that in the experiments described by Rascher alone several deaths occurred.

The explanation of the apparent contradiction is shown clearly by the presentation of evidence: In the experiments authorized by Dr. Ruff and carried out with his approval not a single death occurred. Only the arbitrary experiments which Rascher carried out without the approval of Dr. Ruff and against his will, and which were ordered by Himmler, were deadly.

This can be seen from Rascher's intermediary report of 5 April 1942. (*1971–A–PS, Pros. Ex. 49.*) It falls into two parts.

In the first part Dr. Rascher describes the experiments carried out with Dr. Ruff's approval. He states expressly, "the experiments conducted by myself and Dr. Romberg," and he confirms that even "in a total of 15 extreme experiments, none of the experimental subjects died. Severe high-altitude sickness with unconsciousness occurred; however, the subject was always fully capable of action when approximately 7 km. was attained in the descent."

In the second part, Rascher then describes his arbitrary experiments of which Ruff knew nothing, and was permitted to know nothing. This second part of the report is much more extensive and detailed than the first. That can be explained without difficulty because the experiments mentioned in this second part were carried out by Rascher himself; here he could describe the "merit" of the results he apparently gained all by himself. From this second part he obviously also hoped for complete new results for science, which he emphasized in the accompanying letter to Himmler of 5 April 1942, and he was obviously very proud that following his suggestions (as he empha-

sized) such "interesting standard experiments" were carried out. All this referred exclusively to the arbitrary experiments mentioned in the second part of the report, which Rascher carried out alone without the assistance of Dr. Romberg and without the authorization and previous knowledge of Dr. Ruff. (*1971–A–PS, Pros. Ex. 49.*)

Rascher himself made this distinction in his report (*1971–A–PS, Pros. Ex. 49*) : He contrasts in the second part of his report the "extremely dangerous experiments" with the "experiments carried out by myself (Rascher) and Romberg," while he specially asked for an "SS doctor from the camp as witness" for the arbitrary experiments of the second part of his report, as "I carried out these experiments by myself." But surely Dr. Rascher had his reasons for specially requesting "a camp doctor as a witness" for these experiments (which are described in the second part of his report), but intentionally kept Dr. Romberg away. Dr. Rascher indicates these reasons in his accompanying letter of 5 April 1942, talking about difficulties which the Luftwaffe created for him up to that time, whose removal he hopes for by the intervention of SS Fuehrer Sievers. These difficulties which hindered the research work of Rascher were discussed in various other documents which concerned the use of the low-pressure chamber and its return to Dachau, which the SS tried to arrange but never succeeded.

If Dr. Rascher in his intermediary report (*1971–A–PS, Pros. Ex. 49*) emphasized that "only continuous experiments are fatal at heights above 10.5 km.", this plainly confirms, in Dr. Rascher's own words, what Ruff and Romberg stated from the very beginning, that two kinds of high-altitude experiments were carried out in Dachau with the low-pressure chamber. The one kind, which Dr. Romberg took part in and Dr. Ruff knew about, was carried out completely humanely and without any pain, and nothing happened; and the other kind, which Rascher carried out alone by order of Himmler, without Romberg and without the previous knowledge of Dr. Ruff, to which at one time an SS doctor was even asked to attend as a witness and which caused several fatalities.

This result is confirmed by the second report, which Rascher again alone (without the participation of Dr. Ruff and Dr. Romberg) submitted to Himmler, dated 11 May 1942, as a secret report (*NO–220, Pros. Ex. 61*). He describes here the experiments which he carried out jointly with Dr. Romberg and again states: "On the average, the experimental subjects were in complete accord of their actions at 12–13 km.; no disturbances of any kind in the general condition occurred in any of these experiments," and even less, of course, a fatality. Only among the experiments described under figures 6 and 7 of this secret report of Rascher's did fatalities occur, and that "during a continued high-altitude experiment, for example after half an hour in an altitude of 12 km." But these experiments (according

to figures 6 and 7) were the arbitrary experiments in which Rascher had other aims in mind, which had nothing to do with Ruff's problem of "saving from high altitudes," and which were carried out by Rascher alone.

It is also interesting that Rascher still mentions the partial assistance of Dr. Romberg in his first report (of 5 April 1942) (*1971-A-PS, Pros. Ex. 49*) but does not say anything more in the final second report (of 11 May 1942), (*NO-220, Pros. Ex. 61*) where he described the affair as though he alone had carried out the experiments. Compare page 81, line 21: "Experiments carried out by myself"; or page 79, lines 15–16: "*My* heart experiments * * * that a very big sphere of work opened up for *me*," etc. By that Rascher has clearly expressed that he did not have any assistance from Dr. Romberg in the experiments he thought particularly valuable, when he explains as particularly valuable his heart experiments and his observations concerning air embolism. Those were all experiments in which Ruff and Romberg had not the least interest, in which they never participated, and for which they would never have risked the health and the life of an experimental subject.

Even specialists like Dr. Ruff and Dr. Romberg could never understand the scientific or other aim which Rascher had in mind in the case of those arbitrary experiments with fatal endings. Even the layman can easily recognize the basic difference between the two categories of experiments. The legal experiments which had been authorized by Dr. Ruff were always restricted to a very short period of a few moments; but the fatal experiments of Dr. Rascher were, as he emphasized himself, continuous experiments without oxygen, therefore experiments lasting over 30 minutes. It is easily understandable that experiments of such a length without the administration of oxygen may be fatal. To prove this it would not have been necessary to sacrifice even one single human life in these experiments. Serious research workers like Dr. Ruff and Dr. Romberg had therefore never carried out and never authorized such experiments. That was also well known to Rascher, and this explains the fact as stated by Neff (*German Tr. pp. 668, 670, 671*) that Rascher kept Dr. Romberg intentionally away from his arbitrary experiments; furthermore that he even carried out his experiments at night to keep them secret from Dr. Romberg, and that he also did not ask Romberg to sign his intermediary report of 5 April 1942, nor his summarizing secret report of 11 May 1942, which Romberg would surely have refused to do.

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It would therefore be quite wrong to attribute to Dr. Ruff and Dr. Romberg the intention of wanting to suppress something in their final report of 28 July 1942. (*NO-402, Pros. Ex. 66.*) For it is a proven fact that not only Himmler was informed by Rascher of the

cases of death which had occurred, but that Dr. Ruff had also reported the cases of death for which Dr. Rascher was guilty, to his supreme superior, the Inspector of the Medical Service [of the air force], Dr. Hippke. For this same reason he had caused the low-pressure chamber to be removed from Dachau and had asked the witness, Dr. Hippke, to consent to this. These proven facts show that Dr. Ruff did not conceal anything and had nothing to conceal. The fact that the cases of death were not mentioned in the final report of 28 July 1942 has therefore nothing to do with any concealment but is only due to the fact that those experiments which had fatal results had nothing whatsoever to do with the experiments of Dr. Ruff and Dr. Romberg and their problem.

For the same reasons it is not surprising at all that Dr. Ruff did not inform Dr. Weltz of the fatal accidents during the special experiments of Rascher. Weltz was neither Ruff's superior nor his subordinate, and at the time when Dr. Ruff learned of the deaths which had occurred during Rascher's experiments, Dr. Rascher had already been transferred from the Weltz Institute.

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The defense, therefore, arrives at the following conclusion:

Dr. Ruff only did what his superiors ordered him to do. If they have failed, they should be taken to account.

Dr. Ruff had no doubts concerning the orders of his superiors for his assignment was urgently necessary in the interest of his country, engaged in the most difficult war, and of its aviation. If Dr. Ruff at the time had been able to read all the international literature about medical experiments on human beings he would have learned that experiments much more exacting and much more dangerous than those with which he was familiar—which he knew and planned—were being conducted everywhere, also on prisoners; and perhaps they are still being conducted without the competent authorities or medical societies declaring them impermissible and intervening against them. Over many years, Dr. Ruff proved himself to be a particularly conscientious and considerate man of research who devoted his entire activity primarily to save endangered human lives. Neither can he be blamed for having collaborated for a short time with Dr. Rascher. He (Rascher) had been assigned to him as associate by his highest superiors; he had to rely upon that. If they ordered him to work together with a man who, later on, turned out to be a criminal, no liability can be charged to Dr. Ruff. When Dr. Ruff saw through his colleague who was forced upon him and realized his criminal activities, he immediately cut off all relations to him on his own initiative, avoided any further collaboration with him, and thus probably prevented much further disaster.

Field Marshal Milch was acquitted as far as the Dachau altitude tests are concerned.* Medical Inspector Dr. Hippke was not indicted at all. Under these circumstances justice demands that Dr. Ruff be acquitted.

EXTRACT FROM THE CLOSING BRIEF FOR DEFENDANT SIEVERS

* * * * * * *

Low-Pressure Experiments

Low-pressure experiments (high-altitude experiments) were carried out in the Dachau concentration camp from 22 February to the end of May 1942.

The first plans to carry out experiments "for rescue from high altitudes" were discussed already in 1941. The experiments were an affair of the Luftwaffe. (*1581–A–PS, Pros. Ex. 48.*)

The carrying out of experiments for "rescue from high altitudes" was agreed upon, as far as the Dachau concentration camp was concerned, by the Reich Minister for Aviation (represented by State Secretary and Field Marshal Milch) and the Reich Leader SS Himmler. (*German Tr. p. 274. Also judgment of Military Tribunal II, Nuernberg in case of Field Marshal Milch. See Vol. II.* The witness Neff gave the exact date of the start of the experiments. The experiments were started on 22 February 1942. The witness could remember this date so well because it was his birthday. (*German Tr. p. 606.*) After a few interruptions the experiments ended in the second half of May. (*German Tr. p. 6779.*)

When answering the question whether the experiments could inflict torture and death on the experimental subjects, one has to distinguish between the experiments which according to the detailed instructions of Dr. Ruff were carried out by Dr. Rascher and Dr. Romberg in the Dachau concentration camp, and the experiments which Rascher carried out either with the knowledge and permission of Himmler, or without his permission on his own responsibility.

With regard to the first experiments it has to be said that they caused the experimental subjects some discomfort through high-altitude sickness, but that on no account did they mean torture and death for the experimental subjects. (Evidence of Dr. Ruff in direct examination.)

On the other hand the experiments which Rascher conducted on his responsibility have, according to Prosecution Document 1971–A–PS (*Pros. Ex. 49*), apparently to be judged in a different manner .

Sievers came in contact with the low-pressure experiments only in the second half of March 1942. By letter of 21 March 1942 Rudolf

*See Vol. II, Judgment in case of United States *vs.* Erhard Milch.

Brandt replied to an inquiry of the Reich business manager of the Ahnenerbe of 9 March 1942 concerning Rascher, and informed him that low-pressure experiments were carried out in the Dachau camp: "The Reich Leader SS gave his permission on condition that Dr. Rascher would participate." (*1581–A–PS, Pros. Ex. 48.*)

The cause of Sievers' letter of 9 March 1942 was the statement of Dr. Rascher to the curator Wuest, according to which certain research work which he carried out for the Luftwaffe in Dachau, and of which he could give no details, was to be supported by the administration of the "Ahnenerbe". (*German Tr. p. 5671.*) Following this, Sievers went to Dachau in late March or on 1 April 1942. (*German Tr. p. 5672.*)

Thus this date was the earliest on which Sievers could possibly have gained knowledge about the carrying out of high-altitude experiments in Dachau. It is important that at this time the experiments had already been under way for over a month.

The cunning Rascher took the first visit of Sievers as an opportunity to invite Sievers to have a look at the experiments directed by him, in spite of the fact that Sievers had nothing at all to do with the carrying out of the experiments. Sievers watched two experiments. He took the opportunity to speak to the two persons who were subjected to the experiments on that day. Both told Sievers that they had volunteered for the experiment. A few minutes after the experiment both experimental subjects did not show any after-effects and finished the experiment without suffering any bodily or physical damage. (*German Tr. p. 5741.*)

The following proceeding shows the special care which was taken in the carrying out of these experiments: It was agreed with the experimental persons that in case of earache they were to point with the hand to the ear. When one of the experimental subjects did this, Dr. Romberg immediately altered the pressure conditions, and the behavior of the experimental subject showed that he had no more discomfort. (*German Tr. pp. 5743 and 6845.*)

Since the question of the voluntary status of the human experimental subjects may be of significance in the case of all experiments, a comprehensive presentation of the most important depositions on this subject is given here.

Himmler stated at the Easter conference in 1942, in answer to the scruples of Sievers, that only volunteers were to be allowed to be drawn upon for the experiments, and if the experiments were fraught with danger to life then only major criminals under sentence of death and no political prisoners would be taken. (*German Tr. p. 5677.*) The witness Neff testified that volunteers presented themselves for the experiments. (*German Tr. p. 614.*)

Dr. Craemer of the Mountain Institute for Psychology of the Army Mountain Medical School [Gebirgspsychologisches, Institut der Heeres-Gebirgs-Sanitaets-Schule] has, in an affidavit, reported a conversation with Dr. Rascher in the course of which the latter said:

"Human experimental subjects. It is a question of major criminals under valid sentence of death who come forward voluntarily for the experiments in Dachau in order to have life and liberty given to them if they survive an experiment." (*Handloser 37*, *Handloser Ex. 18.*)

The witness Meine declared:

"* * * since, furthermore, I knew from the series of experiments in Oranienburg that the prisoners had come forward voluntarily in crowds * * * my suspicion was not aroused during these years." (*German Tr. p. 4864.*)

Dr. Mrugowsky deposed the following in his direct examination regarding yellow-fever experiments:

"Only volunteers were used, and Dr. Ding states in his declaration (*NO–257*, *Pros. Ex. 283*) that he knew of a list, and that for these kinds of cases always hundreds of volunteers offered themselves because they would not need to work for 4 weeks and were better fed." (*German Tr. p. 5195.*)

Further, I refer to the affidavit of Dr. Morgen, which was submitted by Dr. Mrugowsky's defense counsel, Mrugowsky 32 (*Mrugowsky Exhibit 26*):

"At the conference with Dr. Ding I learned that the human experimental subjects came forward voluntarily for these experiments. * * * In the case of the prisoner whose treatment I chanced to watch with others, I had the definite impression that he was a volunteer." (*German Tr. p. 5228.*)

In connection with the high-altitude experiments in Dachau, I quote the following from Dr. Ruff's deposition:

"Professor Dr. Weltz told me that these human experimental subjects were professional criminals who were allowed to volunteer for the experiments." (*German Tr. p. 6532.*)

"Hippke told me also in this conversation that it was a question of major criminals who could offer themselves voluntarily for the experiments and who, following the experiments, were then to receive in some form a mitigation of their punishment, either reduction or remission." (*German Tr. p. 6534.*)

The chief of Himmler's personal staff, SS General Karl Wolff, gave an affidavit in London on 21 November 1946, which is of special importance because Wolff himself watched experiments in Dachau together with Himmler, and also reported to Hitler concerning the experiments:

"They (namely, the human experimental subjects) protested to Himmler in my presence that—after their request to be sent to

the front had been turned down—they wanted to render a modest voluntary service to Germany and thereby give proof of the good will they really possessed. * * * That later low-pressure experiments are said to have taken place on prisoners on a non-voluntary basis—of that I received no knowledge either from Himmler nor in any other way." (*German Tr. pp. 6757–58.*)

Dr. Romberg declared in direct examination:

"In the course of time, not exactly on the first day, but as time went on, I spoke of course with all of them more often and in greater detail; then they told me gradually what previous sentences they had had, what prisons and penitentiaries they had already been at before coming to the camp. They told me also the reasons why they had come forward and had placed themselves voluntarily at the disposal of the experiments."

To the question: "Do you mean by that, that all the human experimental subjects who were used for the altitude experiments were voluntarily human experimental subjects?" Dr. Romberg answered with a clear, "Yes." (*German Tr. pp. 6787–88.*)

The following is quoted from Dr. Weltz' deposition:

"When I first heard anything from Kottenhoff concerning Rascher's proposals, Kottenhoff spoke already of volunteers. Later, after this conversation with Hippke I spoke again with Rascher. Rascher also spoke of volunteers. We then had Rascher at our joint consultation with Ruff and Romberg in my institute. There, too, he spoke of volunteers. In the observations that he made at the Nuernberg conference in connection with Holzloehner's lecture, he spoke of volunteers. He spoke further of volunteers, on the return journey from the Nuernberg conference, with Dr. Craemer from St. Johann. * * * Thus I never heard Rascher speak otherwise than of volunteers, and, as I said already, that was the reason why we did not speak for a long time at all concerning compulsory experiments with Hippke." (*German Tr. p. 7064.*)

The affidavit of the Polish Communist Wilschewske, an inmate of Dachau concentration camp, which was read on 28 April 1947, deposes as to the voluntary status of the human experimental subjects:

"Prisoners who came forward for these experiments did so, as far as I know, voluntarily, because they could thereby gain their own freedom and rehabilitation, and also favorable treatment for their relatives." (*German Tr. p. 6555.*)

Dr. Becker-Freyseng deposed the following in his direct examination:

"Rascher spoke unequivocally of prisoners or criminal characters who were available because of special sanctions * * * by Hitler and Himmler, and through volunteering." (*German Tr. pp. 7850–51.*)

The witness Dorn, a former prisoner in Buchenwald, deposed in answer to the following question: Were these people now forced into these experiments or was there a possibility of volunteering?

"I should like to give you an answer to that. Imagine the position of a prisoner who perhaps for years had not had enough to eat to satisfy him, and who perhaps learns from a camp conversation that if he were to offer himself for this or that experiment he would receive a double or triple amount of food. You can imagine that hundreds or more presented themselves merely from the purely human urge to eat their fill once again." (*German Tr. p. 8620.*)

Dr. Beiglboeck likewise makes assertions in his direct examination concerning the voluntary status of the human experimental subjects, and declares in conclusion:

"I had at that time absolutely no reason to doubt that this information was correct. Superiors, officers of the SS, and the human experimental subjects themselves admitted this to me. And I do not know what more I could have done in order to assure myself still further." (*German Tr. p. 8701.*)

The voluntary status of the prisoners is likewise confirmed in his affidavit by the witness Dr. Lesse, who worked as a doctor with Dr. Beiglboeck in Dachau. (*Beiglboeck 14, Beiglboeck Ex. 20.*)

The witness Mettbach has also confirmed the voluntary status of the human experimental subjects in connection with the sea-water experiments.

Finally reference is made to the deposition of the witness Nales, who was examined by the prosecution on 30 June 1947 in the second half of the forenoon session, and who testified to the voluntary status of the human experimental subjects used in the Lost gas experiments.

The evidence produced has not given the slightest grounds for believing that Sievers had any knowledge at all that nonvoluntary human experimental subjects were compelled to undergo experiments, or that the experiments would be painful or fraught with danger to life.

As a precaution let us also examine the question as to what further activity Sievers developed in connection with the low-pressure experiments. From the document book presented by the prosecution it appears that Sievers passed on letters which came to his office. Sievers is mentioned in some documents. The following separate letters are at hand:

In connection with the altitude experiments, the prosecution's document book contains the following documents in which the Reich Business Manager of the Ahnenerbe is mentioned in one way or another. (*NO-263, Pros. Ex. 47.*) Letter from Frau Rascher to the Reich Leadership SS dated 24 February 1942:

"Rascher requests SS Obersturmbannfuehrer Schnitzler to acquaint the Reich Leader with the events and to say at the same time that Rascher, as a member of the Ahnenerbe, definitely wishes to participate scientifically in the experiments."

From this it is seen how very keen even Frau Rascher was that her husband should participate in the experiments in Dachau. This was at a time when Sievers had as yet no knowledge at all of the altitude experiments.

Letter from the Reich Business Manager of the Ahnenerbe to Dr. Brandt, dated 26 August 1942 (*NO–221*, *Pros. Ex. 68*). This letter contains a copy of a letter from Rascher which had as its subject a report by Rascher and Romberg to Field Marshal Milch. The second part of the letter contains the report and the assent to the publication of the scientific results. Here the date of the letter must be pointed out, 26 August 1942, which was many weeks after the altitude experiments had come to an end, in May 1942.

Dr. Brandt's reply to Sievers, dated 29 August 1942 (*NO–222*, *Pros. Ex. 69*) :

"The letter of the Reich Leader SS, with which he has forwarded the report to Field Marshal Milch, was only signed and sent off a few days ago. Copy of the letter of the Reich Leader SS dated 25 August 1942 is enclosed for your information."

Here it is to be observed that this letter likewise was written long after the conclusion of the altitude experiments and, like the preceding one, contains nothing at all concerning the experiments. It cannot be inferred from the letter dated 29 August 1942 that a copy of the report sent to Field Marshal Milch was also sent to the Ahnenerbe.

Brandt sends Sievers a copy of his letter to Dr. Rascher dated 6 September 1942 (*NO–223*, *Pros. Ex. 71*). It contains the information that Field Marshal Milch will ask Dr. Rascher and Dr. Romberg to meet shortly and report.

Letter from Rascher to Himmler, dated 9 October 1942 (*1610–PS*, *Pros. Ex. 73*). Sievers is mentioned in connection with the unsuccessful report to Milch. It is worth noting that Rascher asks that the low-pressure chamber may still be left at his disposal for further experiments.

Letter from the Reich Business Manager of the "Ahnenerbe" to the personal staff, for the attention of Dr. Brandt, dated 21 October 1942 (*NO–226*, *Pros. Ex. 75* (*Pros. Ex. 110 in Milch case*); *1617–PS*, *Pros. Ex. 111 in Milch case*). This letter contains the information that the freezing experiments are finished and that the altitude experiments desired by the Reich Leader SS can now be continued. For this purpose the low-pressure chamber will be needed again, and the Reich Leader SS is to write personally to Field Marshal Milch.

The rough draft of a letter of the Reich Leader SS to Field Marshal Milch was enclosed with this letter. This rough draft is submitted by the prosecution as NO–226, Prosecution Exhibit 75. This draft was submitted by Sievers because of an assignment given to him by Himmler. The rough draft was drawn up in accordance with Rascher's suggestions. (*German Tr. p. 5682.*)

This letter, dated 13 December 1942, contains several research commissions given personally by Himmler to Rascher (*1612–PS, Pros. Ex. 79*). Number 5 reads:

> "The procuring of the apparatus necessary for all experiments is to be discussed separately with the offices of the Reich Physician SS of the SS Economic and Administrative Main Office, and with the Ahnenerbe Registered Association."

A copy went to the Ahnenerbe.

This is a letter from the Vorstand [Board of Directors] of the Siemens-Schuckert-Werke, Berlin, and concerns the ordering of an electrocardiograph (*NO–3675, Pros. Ex. 548*). This apparatus was never delivered because the "SS priority grade" was not certified. Let it be remarked here, for the sake of understanding, that the designation "SS priority grade" was in general use and had nothing to do with the "SS", the so-called "Schutzstaffeln" of the NSDAP.

Letter from Sievers to the Rector of the University of Munich concerning the loan of different pieces of apparatus (*NO–3674, Pros. Ex. 549.*) Dr. Wuest was, as repeatedly pointed out, office chief of the Ahnenerbe. As such he had exact information concerning the research commissions of the Institute for Military Scientific Research. A simple way to obtain the apparatus would have been an agreement made over the telephone. If Sievers chose to do it by letter it was only because of the delaying tactics practiced by him. This is seen clearly from the postscript intended for Rascher, telling him not to participate. It is also worthy of note that the apparatus was to be used in Munich and not in Dachau.

Sievers had no right to issue orders or instructions in connection with the low-pressure experiments, as is seen from part III of the closing brief. Sievers had not the slightest influence on the carrying out of the experiments.

Sievers could have had no knowledge that the experiments might be inhuman, because he, or the Ahnenerbe, was only brought in when the experiments had already been in progress for over a month.

The question still to be examined is whether and when Sievers received knowledge of Rascher's reports concerning his experiments. To this the following details are pointed out: On 5 April 1942 Rascher sent an interim report on his low-pressure experiments direct to Himmler. He asked that the report should be treated as secret. (*1971–A–PS, Pros. Ex. 49.*)

The acknowledgment of the receipt did not go through the Ahnenerbe but went directly from Rudolf Brandt to Rascher. (*1971–C–PS, Pros. Ex. 50.*) It is nowhere mentioned that a copy went to the Ahnenerbe. From the distribution of the order issued by Himmler thereon (*1971–B–PS, Pros. Ex. 51*), it is clearly seen that the Ahnenerbe received no copy of the order.

On 11 May 1942 Rascher sent a further secret report direct to Himmler, so that Sievers here too had no possibility of acquiring any knowledge of this report. (*NO–220, Pros. Ex. 61.*)

On 22 September 1942 the German Experimental Station for Aviation sent copies of Nos. 2, 3, and 4 of the report "Experiments on Rescue from High Altitudes" as "top secret" matter to the Reich Leader SS "to be filed there". (*NO–402, Pros. Ex. 66.*) Even if the first page of the report bears the note, "The investigations were conducted in conjunction with the Research and Instruction Association the Ahnenerbe", no kind of proof is thereby furnished that a copy of the report reached the Ahnenerbe. It is true that Sievers does not exclude the possibility that such a report came to the Ahnenerbe, but he denies that he read such a report, because it did not concern him, and it also did not interest him as it dealt with medical matters. If he did read any of it, it was at the most the short summary to be found at the end. (*German Tr. p. 5681.*)

It must also be pointed out that there is nothing in this report which could lead to the conclusion that the experiments had fatal results. The prosecution's expert Professor Ivy also confirmed this in answer to the Court's question: "Is there anything mentioned in the Ruff-Romberg-Rascher report about experiments concerning which it can be asserted with absolute certainty that fatalities, permanent injury, or great pain have resulted in the case of human experimental subjects?" The expert's answer was "No." (*German Tr. p. 9217.*) In addition this report was sent to Himmler on 22 September 1942, thus, long after the close of the experiments. Sievers cannot then have gained any insight into Rascher's criminal activity from Rascher's reports.

Sievers had not the power or the opportunity of preventing Rascher's criminal experiments or of bringing them to a standstill. It is true that at the Easter conference in 1942 he tried to move Himmler to discontinue all experiments in the concentration camps, or at least to bring about the suppression of the research of Rascher and Professor Dr. Hirt, which were not in harmony with the character of the Ahnenerbe. Both his suggestions were refuted by Himmler's declaration that "all that" was no concern of Sievers and that he (Himmler) bore the sole responsibility. (*German Tr. p. 5714.*)

In spite of Himmler's declaration, Sievers endeavored to halt further low-pressure experiments, when the low-pressure chamber had been removed from Dachau at the beginning of June 1942.

Already on 27 November 1942, the chief of the personal staff of the Reich Leader SS, SS General Wolff, had applied to Field Marshal Milch in order to make possible Rascher's further experiments in Dachau. In the closing sentence of this letter the loan of the low-pressure chamber is once again requested. (*NO–269, Pros. Ex. 78 (Pros. Ex. 118 in the Milch Case).*)

That General Wolff by Himmler's orders laid great stress on making further experiments possible is seen from the fact that a copy of the letter went also to SS Oberfuehrer Dr. Wuest, who was office chief of the Ahnenerbe. Thereby the special importance of the affair was to be shown also to the Ahnenerbe, on which the obligation rested to procure the requisite apparatus in accordance with figure three of Himmler's order of 7 July 1942 (*NO–422, Pros. Ex. 33*) and repeated later under figure five of Himmler's order of 13 December 1942 (*1612–PS, Pros. Ex. 79*).

When the Luftwaffe did not make the low-pressure chamber available again, Sievers was commissioned to buy a special portable low-pressure chamber for the SS. (*German Tr. p. 5800.*) And then Sievers did something unheard of and rang up Dr. Romberg of the German Experimental Station for Aviation. Romberg was very much surprised at this telephone call. (*German Tr. pp. 6839–40.*)

Through his communication that he had been commissioned by Himmler to procure a low-pressure chamber for Rascher, who at that time was still a member of the Luftwaffe, he aroused the attention of the Luftwaffe. For Dr. Romberg communicated this news to his superior Dr. Ruff, who, on his side, informed Dr. Becker-Freyseng of the Medical Inspectorate of the Luftwaffe. (*German Tr. pp. 6607–08, 7878; Becker-Freyseng 24, Becker-Freyseng Ex. 11.*) This was what Sievers counted upon. The consent of the Luftwaffe would have been necessary for the purpose of sanctioning the requisite priority grade for a low-pressure chamber. The Luftwaffe denied this necessity and thus the low-pressure chamber under consideration for Rascher was not procured.

When Himmler in the year 1943—probably at Rascher's urging—ordered Sievers again to procure a low-pressure chamber, Sievers was able once more to prevent one from being procured. This time he pointed out that the research management of the Luftwaffe did not consider it necessary to continue with altitude experiments. Sievers advanced this statement at random, profiting by the fact that Rascher, though probably known to the Medical Inspectorate of the Luftwaffe, was not known to the research management of the Luftwaffe. (*German Tr. p. 5801.*)

Criminal action on the part of Sievers cannot be proved in connection with the low-pressure experiments. The carrying out of the experiments was neither ordered nor arranged for by him. He did not come into contact with the experiments until they had been in progress for over a month. What Sievers saw, heard, and read about the experiments could not in any way give him the knowledge that inadmissible experiments were being made. Sievers had no knowledge of Rascher's criminal experiments while the experiments were in progress, because Rascher kept these experiments completely secret. Sievers' activity was of a completely subordinate nature. Apart from that, however, Sievers helped to prevent Rascher (whom Sievers could not bear, for he was a pompous fellow and a protégé of Himmler) from being put again in a position to carry on further low-pressure experiments.

There is no criminal guilt then on the part of Sievers, as far as Sievers' contact with the low-pressure experiments is concerned.

d. Evidence

Prosecution Documents

Doc. No.	Pros. Ex. No.	Description of Document	Page
1602–PS	44	Letter from Rascher to Himmler, 15 May 1941, concerning high-altitude experiments on human beings.	141
1582–PS	45	Letter from Rudolf Brandt to Rascher, undated, informing him that prisoners would be made available for high-altitude research.	143
1581–A–PS	48	Letter from Rudolf Brandt to Sievers, 21 March 1942, concerning Rascher's participation in high-altitude experiments.	144
1971–A–PS	49	Letter from Rascher to Himmler, 5 April 1942, and report, undated, on high-altitude experiments.	144
1971–C–PS	50	Letter from Rudolf Brandt to Rascher, 13 April 1942, regarding his success with high-altitude experiments.	147
1971–B–PS	51	Letter from Himmler to Rascher, 13 April 1942, requesting a repetition of high-altitude experiments on prisoners condemned to death.	148
1971–D–PS	52	Teletype from Rascher to Rudolf Brandt, 20 October 1942, requesting clarification on the pardon granted by Himmler.	149
1971–E–PS	53	Teletype from Rudolf Brandt to Schnitzler, 21 October 1942, concerning the pardon granted by Himmler.	149
NO–218	56	Letter from Rascher to Himmler, 16 April 1942, reporting on high-altitude experiments with fatal results and on experiments conducted together with Romberg.	150

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NO–264	60	File note for SS Obersturmfuehrer Schnitzler, 28 April 1942.	151
NO–220	61	Letter from Rascher to Himmler, 11 May 1942, and secret report concerning high-altitude experiments.	152
NO–402	66	Letter, 29 September 1942, and report, 28 July 1942, from Romberg and Ruff to Himmler concerning experiments on rescue from high altitudes.	155
343–A–PS	62	Letter from Milch to Wolff, 20 May 1942, regarding continuation of experiments.	172
343–B–PS	70	Letter from Milch to Himmler, 31 August 1942, acknowledging receipt of reports by Rascher and Romberg on high-altitude experiments.	172
NO–289	72	Letter from Hippke to Himmler, 8 October 1942, thanking the latter for his assistance in high-altitude experiments in Dachau.	173
NO–224	76	Note by Romberg on showing of film in office of State Secretary Milch and proposed report to Milch, 11 September 1942.	174
1612–PS	79	Letter from Rudolf Brandt to Rascher, 13 December 1942, and Himmler's order assigning Rascher to high-altitude experiments.	176
NO–610	41	Inmates of the Dachau concentration camp in different stages of simulated altitude in the low-pressure chamber; postmortem dissections of experimental subjects who died from the effects of high-altitude experiments. (*See Selections from Photographic Evidence of the Prosecution.*)	898

Testimony

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TRANSLATION OF DOCUMENT 1602–PS
PROSECUTION EXHIBIT 44

LETTER FROM RASCHER TO HIMMLER, 15 MAY 1941, CONCERNING HIGH-ALTITUDE EXPERIMENTS ON HUMAN BEINGS

[Stamp]

Sigmund Rascher, M. D.

Personal Staff Reich Leader SS
Archives File No. Secret/58

Munich, Trogerstrasse 56, 15 May 1941

Highly esteemed Reich Leader,

My most sincere thanks for your cordial wishes and flowers on the birth of my second son. This time, too, it is a strong boy, though he

arrived 3 weeks too early. I shall take the liberty and send you a small picture of both children some time.

Since I want a third child very soon, I feel very grateful to you that with your help, highly esteemed Reich Leader, the wedding is made possible. Today I was informed by SS Standartenfuehrer Sollmann on the telephone that the 165 marks as required for a wedding will be charged to the account "R" and will be transmitted by the Ahnenerbe. I thank you heartily! I only need a short certificate concerning Aryan descent for the Luftwaffe, where the permit was already submitted. Tomorrow, prior to my departure, I shall dictate a rough text to Nini D; she will then forward the note to you, highly esteemed Reich Leader.

I also thank you very cordially for the generous regular allowance of fruit; this is at present extremely important for mother and children.

For the time being, have been assigned to the Luftgau Kommando VII, Munich, for a medical selection course. During this course, where research on high-altitude flying plays a prominent part, determined by the somewhat higher ceiling of the English fighter planes, considerable regret was expressed that no experiments on human beings have so far been possible for us because such experiments are very dangerous and nobody is volunteering. I therefore put the serious question: is there any possibility that two or three professional criminals can be made available for these experiments? The experiments are being performed at the Ground Station for High-Altitude Experiments of the Luftwaffe [Bodenstaendige Pruefstelle fuer Hoehenforschung der Luftwaffe] at Munich. The experiments, in which the experimental subject of course may die, would take place with my collaboration. They are absolutely essential for the research on high-altitude flying and cannot, as it has been tried until now, be carried out on monkeys, because monkeys offer entirely different test conditions. I had an absolutely confidential talk with the representative of the Luftwaffe physician who is conducting these experiments. He also is of the opinion that the problems in question can only be solved by experiments on human beings. (Feeble-minded individuals also could be used as experimental material.)

For the time being, SS men and some SS officers as well are detailed to the antiaircraft school IV, for studying the range-finding technique. The material is excellent. Nevertheless, I suggest that selection of range-finding men among SS troops should be carried out according to the methods of examination as used by the Luftwaffe. A still better selection would thus be the result. I am able to judge because I am the specialist for medical selection with the Luftwaffe range-finding unit, and all those detailed to these courses once more have to pass my examination. I therefore take the liberty to send to you from Schongau

the method of selection as drafted by me. For this, I received the War Merit Cross, 2d Class, with Swords. It will not be a note for instruction but a draft for a lecture. I prefer to have it forwarded the direct way rather than that any SS officer should put it down in a mutilated way during my lectures. A similar instructional note was submitted to the Reich Ministry for Aviation.

Thanks to your generosity, the cancer research is progressing well, in spite of the war.

I do hope that you, highly esteemed Reich Leader, are in perfect health, in spite of your tremendous amount of work!

With my most hearty wishes, I am with

Heil Hitler!

[handwritten] Yours, gratefully devoted,

[Signed] S. RASCHER

[Handwritten] RUSH

TRANSLATION OF DOCUMENT 1582–PS
PROSECUTION EXHIBIT 45

LETTER FROM RUDOLF BRANDT TO RASCHER, UNDATED, INFORMING HIM THAT PRISONERS WOULD BE MADE AVAILABLE FOR HIGH-ALTITUDE RESEARCH

AK/104a/LO Bra/V

[Stamp unintelligible May 2 (?) 1941]

SS Untersturmfuehrer Sigmund Rascher M. D.
Munich
Trogerstr. 56

Dear Dr. Rascher:

Shortly before flying to Oslo, the Reich Leader SS gave me your letter of 15 May 1941, for partial reply.

I can inform you that prisoners will, of course, be gladly made available for the high-flight researches. I have informed the Chief of the Security Police of this agreement of the Reich Leader SS, and requested that the competent official be instructed to get in touch with you.

I want to use the opportunity to extend my cordial wishes to you on the birth of your son.

I shall refer as soon as possible to the second part of your letter.

By order

Heil Hitler!

[initials] R BR [Rudolf Brandt]
SS Sturmbannfuehrer

[illegible markings]

TRANSLATION OF DOCUMENT 1581–A–PS
PROSECUTION EXHIBIT 48

LETTER FROM RUDOLF BRANDT TO SIEVERS, 21 MARCH 1942, CONCERNING RASCHER'S PARTICIPATION IN HIGH-ALTITUDE EXPERIMENTS

The Reich Leader SS Personal Staff
Journal No. AR 704/2 A/Bn.

[Stamp]
Personal Staff Reich Leader SS
Documentary Administration
Record number AR/704/2 A/Bn. 58
Fuehrer Headquarters, 21 March 1942

To the Reich Chief Manager [Reichsgeschaeftsfuehrer] of the "Ahnenerbe"
SS Obersturmbannfuehrer Sievers
Berlin—Dahlem

Dear Comrade Sievers,

I refer to your inquiry of 9 March 1942 B/151/rl S/Wo—concerning Dr. Rascher.

Reference is made to the subatmospheric pressure experiments which are being carried out on concentration camp inmates in the Dachau camp by the air force. The Reich Leader SS has approved these experiments under the condition that SS Untersturmfuehrer Dr. Rascher, who is an Obersturmfuehrer of the air force, takes part in them. I am sure that Dr. Rascher will be able to give you further details.*

Heil Hitler!
[Signed] BRANDT
SS Sturmbannfuehrer

TRANSLATION OF DOCUMENT 1971–A–PS
PROSECUTION EXHIBIT 49

LETTER FROM RASCHER TO HIMMLER, 5 APRIL 1942, AND REPORT, UNDATED, ON HIGH-ALTITUDE EXPERIMENTS

Sigmund Rascher, M. D.

5 April 1942

[Marginal note] Very interesting. 8–4–42.
[Apparently by Himmler]

Highly esteemed Reich Leader:

Enclosed is an interim report on the low-pressure experiments so far conducted in the concentration camp of Dachau. May I ask you respectively to treat the report as secret?

* Last sentence is crossed out and replaced by one in German shorthand.

A few days ago Reich Physician SS [Reichsarzt SS] Professor Dr. Grawitz made a brief inspection of the experimentation plant. Since his time was very limited, no experiments could be demonstrated to him. SS Obersturmbannfuehrer Sievers took a whole day off to watch some of the interesting standard experiments and may have given you a brief report. I believe, highly esteemed Reich Leader, that you would be extraordinarily interested in those experiments. Is it not possible that on the occasion of a trip to southern Germany you have some of the experiments demonstrated to you? If the results so obtained by the experiments are confirmed by further experimentation, entirely new data will be secured for science; simultaneously, entirely new aspects will be opened to the Luftwaffe.

I hope that, thanks to the intended efforts of SS Obersturmbannfuehrer Sievers, the Luftwaffe will make no difficulties from now on. I am very much indebted to Obersturmbannfuehrer Sievers as he has shown a very active interest in my work in every respect.

I thank you respectfully, highly esteemed Reich Leader, for the generous realization of my proposition to conduct such experiments in the concentration camp.

With my best wishes for your personal well-being, I am

With Heil Hitler
Gratefully yours,
[Signed] S. Rascher

FIRST INTERIM REPORT ON THE LOW-PRESSURE CHAMBER EXPERIMENTS IN THE CONCENTRATION CAMP OF DACHAU

1. The object is to solve the problem of whether the theoretically established norms pertaining to the length of life of human beings breathing air with only a small proportion of oxygen and subjected to low pressure correspond with the results obtained by practical experiments. It has been asserted that a parachutist, who jumps from a height of 12 km. would suffer very severe injuries, probably even die, on account of the lack of oxygen. Practical experiments on this subject have always been discontinued after a maximum of 53 seconds, since very severe bends [Hoehenkrankheit] occurred.

2. Experiments testing the length of life of a human being above the normal breathing limits (4,5,6 km.) have not been conducted at all, since it has been a foregone conclusion that the human experimental subject [Versuchsperson—VP] would suffer death.

The experiments conducted by myself and Dr. Romberg proved the following:

Experiments on parachute jumps proved that the lack of oxygen and the low atmospheric pressure at 12 or 13 km. altitude did not

cause death. Altogether 15 extreme experiments of this type were carried out in which none of VP's died. Very severe bends together with unconsciousness occurred, but completely normal functions of the senses returned when a height of 7 km. was reached on descent. Electrocardiograms registering during the experiments did show certain irregularities, but by the time the experiments were over the curves had returned to normal and they did not indicate any abnormal changes during the following days. The extent to which deterioration of the organism may occur due to continuously repeated experiments can only be established at the end of the series of experiments. The extreme fatal experiments will be carried out on specially selected VP's, otherwise it would not be possible to exercise the rigid control so extraordinarily important for practical purposes.

The VP's were brought to a height of 8 km. under oxygen and then had to make 5 knee bends with and without oxygen. After a certain lapse of time, moderate to severe bends occurred and the VP's became unconscious. However, after a certain period of accustoming themselves to the height of 8 km. all the VP's recuperated and regained their consciousness and the normal functions of their senses.

Only continuous experiments at altitudes higher than 10.5 km. resulted in death. These experiments showed that breathing stopped after about 30 minutes, while in 2 cases the electrocardiographically charted action of the heart continued for another 20 minutes.

The third experiment of this type took such an extraordinary course that I called an SS physician of the camp as witness, since I had worked on these experiments all by myself. It was a continuous experiment without oxygen at a height of 12 km. conducted on a 37-year-old Jew in good general condition. Breathing continued up to 30 minutes. After 4 minutes the VP began to perspire and to wiggle his head, after 5 minutes cramps occurred, between 6 and 10 minutes breathing increased in speed and the VP became unconscious; from 11 to 30 minutes breathing slowed down to three breaths per minute, finally stopping altogether.

Severest cyanosis developed in between and foam appeared at the mouth.

At 5-minute intervals electrocardiograms from three leads were written. After breathing had stopped, the electrocardiogram was continuously written until the action of the heart had come to a complete standstill. About ½ hour after breathing had stopped, dissection was started.

Autopsy Report

When the cavity of the chest was opened the pericardium was filled tightly (heart tamponade). Upon opening of the pericardium

80 cc. of clear yellowish liquid gushed forth. The moment the tamponade had stopped, the right auricle began to beat heavily, at first at the rate of 60 actions per minute, then progressively slower. Twenty minutes after the pericardium had been opened, the right auricle was opened by puncturing it. For about 15 minutes, a thin stream of blood spurted forth. Thereafter clogging of the puncture wound in the auricle by coagulation of the blood and renewed acceleration of the action of the right auricle occurred.

One hour after breathing had stopped, the spinal marrow was completely severed and the brain removed. Thereupon the action of the auricle stopped for 40 seconds. It then renewed its action, coming to a complete standstill 8 minutes later. A heavy subarchnoid oedema was found in the brain. In the veins and arteries of the brain a considerable quantity of air was discovered. Furthermore, the blood vessels in the heart and liver were enormously obstructed by embolism.

The anatomical preparations will be preserved and so I shall be able to evaluate them later.

The last-mentioned case is to my knowledge the first one of this type ever observed on man. The above-described heart actions will gain particular scientific interest, since they were written down with an electrocardiogram to the very end.

The experiments will be continued and extended. Another interim report will follow after new results have been obtained.

[Signed] Dr. Rascher

TRANSLATION OF DOCUMENT 1971-C-PS
PROSECUTION EXHIBIT 50

LETTER FROM RUDOLF BRANDT TO RASCHER, 13 APRIL 1942, REGARDING HIS SUCCESS WITH HIGH-ALTITUDE EXPERIMENTS

1174/42 BRa/V

Fuehrer Headquarters, 13 April 1942

Top Secret

SS Untersturmfuehrer Rascher, M. D.
Munich, Trogerstrasse 56

Dear Comrade Dr. Rascher,

Your report of 5.4.1942 has been seen by the Reich Leader SS today. The tests on which SS Obersturmbannfuehrer Sievers gave a brief report interested him very much.

For the further tests I wish you a continuation of the success you have had so far.

Best regards also to your wife.

Heil Hitler!

Yours,

[Signed] B. [R.] BRANDT
SS Sturmbannfuehrer

TRANSLATION OF DOCUMENT 1971–B–PS
PROSECUTION EXHIBIT 51

LETTER FROM HIMMLER TO RASCHER, 13 APRIL 1942, REQUESTING A REPETITION OF HIGH-ALTITUDE EXPERIMENTS ON PRISONERS CONDEMNED TO DEATH

The Reich Leader SS

Fuehrer Headquarters, 13 April 1942

SS Untersturmfuehrer Dr. Rascher
Munich 27, Trogerstrasse 56

Dear Dr. Rascher:

I want to answer your letter with which you sent me your reports. Especially the latest discoveries made in your experiments particularly have interested me. May I now ask you the following:

1. This experiment is to be repeated on other men condemned to death.

2. I would like Dr. Fahrenkamp to be taken into consultation on these experiments.

3. Considering the long-continued action of the heart the experiments should be specifically exploited in such a manner as to determine whether these men could be recalled to life. Should such an experiment succeed, then, of course, the person condemned to death shall be pardoned to concentration camp for life.

Please keep me further informed on the experiments.

Kind regards and

Heil Hitler!

Yours

[Signed] H. HIMMLER

2. Chief of the Security Police and SD.
3. SS Brigadefuehrer Gluecks.

Copy for your information.

by order [I. A.]
[initialed] BR. [Rudolf Brandt]
SS Sturmbannfuehrer

TRANSLATION OF DOCUMENT 1971-D-PS
PROSECUTION EXHIBIT 52

TELETYPE FROM RASCHER TO RUDOLF BRANDT, 20 OCTOBER 1942, REQUESTING CLARIFICATION ON THE PARDON GRANTED BY HIMMLER

REICH SECURITY MAIN OFFICE

Communication

Communication No. 11194 Urgent
RFSS Munich—Teletype No. 2020, 20 October 1942, 5:25 p. m.

To: SS Obersturmbannfuehrer Dr. Brandt
Field Command Post [Feldkommandostelle] Hegewald

Highly esteemed Obersturmbannfuehrer:

Will you please clarify the following case with the Reich Leader SS as soon as possible?

In communication RFSS [Reich Leader SS] of 13-4-42 under paragraph 3 it is ordered that if prisoners in Dachau condemned to death live through experiments which have endangered their lives, they should be pardoned. As up to now only Poles and Russians were available, some of whom had been condemned to death, it is not quite clear to me yet as to whether the above-mentioned paragraph also applies to them, and whether they may be pardoned to concentration camp for life after having lived through several very severe experiments.

Please answer by teletype via Adjutant's Office, RFSS, Munich.

Obedient Greetings,

Heil Hitler!

Yours

[Signed] S. RASCHER

TRANSLATION OF DOCUMENT 1971-E-PS
PROSECUTION EXHIBIT 53

TELETYPE FROM RUDOLF BRANDT TO SCHNITZLER, 21 OCTOBER 1942, CONCERNING THE PARDON GRANTED BY HIMMLER

TELETYPE

To SS Obersturmfuehrer Schnitzler
Munich

Please inform SS Untersturmfuehrer Dr. Rascher with regard to his teletype inquiry that the instruction given some time ago by the

Reich Leader SS concerning amnesty of test persons does not apply to Poles and Russians.

[Signed] BRANDT
SS Obersturmbannfuehrer

21 October 1942
Bra/Dr.

TRANSLATION OF DOCUMENT NO-218
PROSECUTION EXHIBIT 56

LETTER FROM RASCHER TO HIMMLER, 16 APRIL 1942, REPORTING ON HIGH-ALTITUDE EXPERIMENTS WITH FATAL RESULTS AND ON EXPERIMENTS CONDUCTED TOGETHER WITH ROMBERG

Munich, Trogerstrasse 56, 16 April 1942

Highly esteemed Reich Leader:

May I thank you for your letter of 13 April. I am delighted with the great interest which you, highly esteemed Reich Leader, are taking in the experiments and their results. I thank you for the inspiration you have given me in your letter.

The experiment described in the report of 4 April was repeated four times, each time with the same results. When Wagner, the last test person had stopped breathing, I let him come back to life by increasing pressure. Since test person "W . . ." was assigned for a terminal* experiment, as a repeated experiment held no prospect of new results, and since I had not been in possession of your letter at that time, I subsequently started another experiment through which Test Person Wagner did not live. Also in this case the results obtained by electrocardiographic registration were extraordinary.

In accordance with your orders, I tried to contact Dr. Fahrenkamp immediately upon receipt of your letter. However, I could not speak to him since he is laid up with angina. In a few days I shall ask again if Dr. Fahrenkamp is available.

Meanwhile, at times together with Dr. Romberg, I have carried out falling experiments from heights of from 16 to 20 kilometers. There, contrary to theoretical assumptions, it was proved that falling through space after jumping from an airplane in the stratosphere (pressure cabinplane) is quite possible, as after severe unconsciousness the test person regained complete consciousness in each case, at between 7 and 8 kilometers height when the parachute lever, installed in the chamber, was pulled.

Within the next few days, I shall report at length on these experiments as well as on the above-mentioned Test Person Wagner.

---

*Translator's Note: "Terminal" as used here means "resulting in death".

I also have a request to make: May I take pictures of the various dissection preparations in the dissecting room of the concentration camp to make a record of the strange formations of air embolism? In this connection, my wife has already written to SS Sturmbannfuehrer Dr. Brandt.

Highly esteemed Reich Leader, allow me to close by assuring you that your active interest in these experiments has a tremendous influence on one's working capacity and initiative.

I am with devoted greeting and

Heil Hitler!
Yours gratefully devoted
[Signed] S. RASCHER

TRANSLATION OF DOCUMENT NO-264
PROSECUTION EXHIBIT 60

FILE NOTE FOR SS OBERSTURMFUEHRER SCHNITZLER, 28 APRIL 1942

Frau Rascher was here today in the office and stated the following to me for you in a few words:

Oberstabsarzt Dr. Weltz still insists on participation in the experiments and on full responsibility. If not, the assignment of Dr. Rascher to the Weltz Institute must be changed. Weltz personally is *not* interested in these experiments. RLM [The Reich Air Ministry] asks Oberstabsarzt Dr. Weltz how long the experiments will last and whether it is justifiable to detail a medical officer for so long a time. RLM demands from Weltz an opinion on the experiments which he, however, cannot give, unless he is fully informed about them. Weltz will be in Berlin with Generaloberstabsarzt Hippke on Friday. Weltz demands a statement by Friday as to whether he should consider himself as still participating in the experiments, or whether it is requested that he should not participate in the experiments.

The assignment of Dr. Rascher must immediately be changed to "Assignment to Aviation Test Institute Berlin—Adlershof, Dachau Branch" (not Weltz Institute), because Weltz—as he stated—intends to cancel the assignment immediately, if he is not to participate in it.

For personal confidential information

Dr. Weltz confidentially informed Dr. Rascher that there is great mistrust against him in the RLM because of the experiments (SS membership); there is also animosity in the air force administrative command (Luftgau) Munich for this reason.

Munich, 28 April 1942.
Gr.

TRANSLATION OF DOCUMENT NO–220
PROSECUTION EXHIBIT 61

LETTER FROM RASCHER TO HIMMLER, 11 MAY 1942, AND SECRET REPORT CONCERNING HIGH-ALTITUDE EXPERIMENTS

Sigmund Rascher M. D.

Munich, Trogerstrasse 56, 11 May 1942

Highly esteemed Reich Leader:

Enclosed I am forwarding a short summary on the principal experiments conducted up to date. A detailed report on the practical as well as the theoretical results will take some more time. I shall hurry. Since the material has to be processed the exploitation of the pathological preparations will take about ½ year though the Kaiser Wilhelm Institute for Brain Research will help us, I hope.

Tonight I succeeded in seeing Dr. Fahrenkamp who has relatively recovered. He appeared to be very interested and I think there will be a fine and fruitful cooperation. Dr. Fahrenkamp who has an enormous knowledge most amiably promised to help me in everything. He will give to you himself his opinion on my heart experiments. From our conversation I have had the impression that a great field of work will open up to me yet. I thank you, highly esteemed Reich Leader, for having opened these opportunities to me to such an extent.

Unfortunately, the extension of my assignment has not been settled yet; in accordance with the present regulations, my assignment will be terminated on 15 May.

Thanking you again, I am with most obedient greetings and

Heil Hitler!
Yours gratefully,
[Signed] S. Rascher

Munich, 11 May 1942

SECRET REPORT

Based on results of experiments which up to now various scientists had conducted on animals only, the experiments in Dachau were to prove whether these results would maintain their validity on human beings.

1. The first experiments were to show whether the human being can gradually adapt himself to higher altitudes. Some 10 tests showed that a slower ascent without oxygen taking from 6 to 8 hours kept the functions of the senses of the various VP's [Versuchspersonen—human experimental subjects] fully normal up to a height of 8,000 meters. Within 8 hours several VP's had reached a height of 9.5 kilometers without oxygen when bends occurred suddenly.

2. Normally it is impossible to stay without oxygen at altitudes higher than 6 kilometers. Experiments showed however that after ascent to 8,000 meters without oxygen, bends combined with unconsciousness lasted only about 25 minutes. After this period the VP's had mostly become accustomed to that altitude; consciousness returned, they could make knee bends, showed a normal electrocardiograph and were able to work (60 to 70 percent of the cases examined).

3. Descending tests on parachutes (suspended) without oxygen.

These experiments proved that from 14 kilometers on down severest bends occurred which remained until the ground was reached. The detrimental effects caused by these experiments manifested themselves at the beginning as unconsciousness, and subsequently as spastic and limp paralysis, catotomy, stereotypy, and as retrograde amnesia lasting several hours. About 1 hour after the end of the experiment the VP's for the most part were still disoriented as to time and locality. The blood picture often showed a shift to the left; albumen and red and white blood corpuscles were regularly found in the urine after the experiment; cylinders were sometimes found. After several hours or days the blood and urine returned to normal. The changes of the electrocardiograph were reversible.

Contrary to descending tests on parachutes without oxygen, descending tests with oxygen were carried out from heights up to 18 kilometers. It was proved that on the average the VP's regained the normal function of their senses at 12 to 13 kilometers. No disturbances of general conditions occurred during any of these experiments. Brief unconsciousness at the beginning of the experiment caused no lasting disturbances. Urine and blood showed only a slight change.

4. As the long time of descent on parachutes, under actual conditions, would cause severe freezing even if no detrimental effects were caused by lack of oxygen, VP's were brought by sudden decreases in pressure with a cutting torch from 8 to 20 kilometers, simulating the damage to the pressure machine of the high-altitude airplane. After a waiting period of 10 seconds, corresponding to stepping out of the machine, the VP's were made to fall from this height with oxygen to a height where breathing is possible. The VP's awoke between 10 and 12 kilometers and at about 8 kilometers pulled the parachute lever.

5. In experiments of falling from the same height without oxygen, the VP's regained normal function of their senses only between 2 and 5 kilometers.

6. Experiments testing the effect of pervitin on the organism during parachute jumps, proved that the severe after-effects, as mentioned under No. 3, were considerably milder. The ability to withstand the conditions at high altitudes was only slightly improved, while the

bends, since they were not noticed, occurred suddenly (restraint-loosening effects of pervitin).

7. Dr. Kliches, of the Charles University in Prague, reports in the publication of the Reich Research Council: "By prolonged breathing of oxygen, human beings should theoretically be kept fully fit up to 13 kilometers. In practice, the limit is around 11 kilometers. Experiments which I carried out in this connection proved that with pure oxygen no lowering of the measurable raw energy (ergometer) was noticeable up to 13.3 kilometers. The VP's merely became unwilling since pains of the body cavities grew too severe, due to the lowering of pressure between body and thin air. When pure oxygen was inhaled bends occurred in all 25 cases only at heights above 14.2 kilometers."

As practical result of the more than 200 experiments conducted at Dachau, the following can be assumed:

Flying in altitudes higher than 12 kilometers without pressure-cabin or pressure-suit is impossible even while breathing pure oxygen. If the airplane pressure-machine is damaged at altitudes of 13 kilometers and higher, the crew will not be able to bail out of the damaged plane themselves since at that height the bends appear rather suddenly. It must be requested that the crew should be removed automatically from the plane, for instance, by catapulting the seats by means of compressed air. Descending with opened parachute without oxygen would cause severe injuries due to the lack of oxygen, besides causing severe freezing; consciousness would not be regained until the ground was reached. Therefore the following is to be requested: 1. A parachute with barometrically controlled opening. 2. A portable oxygen apparatus for the jump.

For the following experiments Jewish professional criminals who had committed race pollution were used. The question of the formation of embolism was investigated in 10 cases. Some of the VP's died during a continued high-altitude experiment; for instance, after one-half hour at a height of 12 kilometers. After the skull had been opened under water an ample amount of air embolism was found in the brain vessels and, in part, free air in the brain ventricles.

To find out whether the severe psychic and physical effects, as mentioned under No. 3, are due to the formation of embolism, the following was done: After relative recuperation from such a parachute descending test had taken place, however, before regaining consciousness, some VP's were kept under water until they died. When the skull and the cavities of the breast and of the abdomen had been opened under water, an enormous amount of air embolism was found in the vessels of the brain, the coronary vessels, and the vessels of the liver and the intestines, etc.

That proves that air embolism, so far considered as absolutely fatal, is not fatal at all, but that is reversible as shown by the return to normal conditions of all the other VP's.

It was also proved by experiments that air embolism occurs in practically all vessels even while pure oxygen is being inhaled. One VP was made to breathe pure oxygen for 2½ hours before the experiment started. After 6 minutes at a height of 20 kilometers, he died and at dissection also showed ample air embolism, as was the case in all other experiments.

At sudden decreases in pressure and subsequent immediate falls to heights where breathing is possible, no deep reaching damages due to air embolism could be noted. The formation of air embolism always needs a certain amount of time.

[Signed] Dr. Rascher

PARTIAL TRANSLATION OF DOCUMENT NO–402 PROSECUTION EXHIBIT 66

LETTER, 29 SEPTEMBER 1942, AND REPORT, 28 JULY 1942, FROM ROMBERG AND RUFF TO HIMMLER CONCERNING EXPERIMENTS ON RESCUE FROM HIGH ALTITUDES

German Aviation Research Institute
Berlin–Adlershof, Rudower Ch. 16–25

[Stamp] Secret

To the Reich Leader SS
Berlin SW 11
Prinz-Albrechtstr. 8
Your Ref.

Your communication of DVL-Ref. Day
R/Ru/Ko 2098/42, 22 September 1942
Military Secret

Re: Report "Experiments on Rescue from High Altitudes"

[handwritten] to files
B [initial]

Enclosed we submit copies Nos. 2, 3, and 4 of the report "Experiments on Rescue from High Altitudes" for your files.

German Aviation Research Institute
per procura

[Signed] Dr. Romberg
L. Ruff

[handwritten]
Report –3– received 2 November
[Signed] Sievers, SS Oberfuehrer

3 enclosures

Personal Staff Reich Leader SS 29 September 1942
Diary No. 1348/42 To RF

[handwritten] 1943

Top Secret [stamp]

Experiments on Rescue from High Altitudes.*

Abstract: A report is to be made on experiments in which the possibility of rescue from high altitudes in the low-pressure chamber is studied. Experiments were made at parachute sinking speeds up to 15 km. [49,200 ft.] without oxygen, and up to 18 km. [59,100 ft.] with oxygen breathing, as well as falling experiments speeds up to 21 km. [68,900 ft.] altitude with and without oxygen. The results with practical significance will be discussed below.

Organization:
I. Introduction and statement of the problem.
II. Procedure of the experiment.
III. Results of the experiment.
1. Descending experiments without O_2 breathing.
2. Descending experiments with O_2 breathing.
3. Falling experiments without O_2 breathing.
4. Falling experiments with O_2 breathing.
IV. Discussion of the results.
V. Conclusions from the results.
VI. Summary.
Bibliography.

The report includes 28 pages with 3 figures and 6 tables.
German Aviation Research Institute

For the Institute
[signed]: L. Ruff

The Authors:
[Draft copy signed by] Dr. Rascher
Stabsarzt der Lw.
[signed] Dr. Romberg.

Berlin, Adlershof, 28 July 1942.
Rf 401/20
[page 2 of original]

I. Introduction and Statement of the Problem

It is theoretically possible for man to reach as high altitude as he may wish in an aircraft with a pressure cabin. However, the question

*These studies were carried out in conjunction with the research and educational society "Ahnenerbe."

must be settled as to what results or effects the destruction of the pressure cabin will have upon the human being, who in such cases is exposed in a few seconds to the low air pressure and thereby to the lack of oxygen, which is characteristic of high altitude. Of particular practical interest is the question from what altitudes and by what means the safest rescue of the crew can be made. In the work at hand, a report is presented on experiments in which the various possibilities of rescue were studied under special experimental conditions. Since the urgency of the solution of the problem was evident, it was necessary, especially under the given conditions of the experiment, to forego for the time being the thorough clearing up of purely scientific questions.

II. Procedure of the Experiment

The experiments were carried on in a portable low-pressure chamber with equipment for explosive decompression. The performance of this apparatus limited the highest altitude attainable to about 21,000 meters [68,900 feet].

In this experimental series, which was to clarify the possibilities of rescue from high altitudes, the experiments, simulating actual conditions, were carried out in such a way that rescue with parachute unfolded (designated as descending experiments) and with parachute folded (designated as falling experiments) were studied sometimes with and sometimes without oxygen breathing. Since the altitude or posture of the body is of essential significance for the demands made by the lack of O_2 on the circulation, the experiments were carried out in sitting and prone positions; and, in descending experiments, in a sus-

[page 3 of original]

pended position in a parachute harness corresponding to the actual position. For purposes of demonstration certain of the experiments were recorded on film. Electrocardiograms were made of several experiments in the experimental series. Oxygen was breathed out of the customary low-pressure apparatus with continuous flow at altitudes over 10 km. [32,800 ft.]. The following experimental sequence was chosen:

1. Descending experiments without O_2 breathing.
2. Descending experiments with O_2 breathing.
3. Falling experiments without O_2 breathing.
4. Falling experiments with O_2 breathing.

The sinking and falling times which were used in the experiments are tabulated in figures 1 and 2. [Figure 2 not reproduced.]

III. Results of the Experiments

1. Sinking experiments without oxygen breathing

Since a thoroughly dependable parachute oxygen apparatus is not yet generally available, experimental tests were made to determine from what altitudes a rescue with open parachute without oxygen is possible. Therefore, sinking experiments were carried out in which the mask was taken off after ascent with O_2 (for speed of ascent of the chamber see fig. 1), and, after a waiting period of 10 seconds the sinking was begun.

In the experiment no altitude sickness occurred at 9 km. [29,500 ft.] as was expected.

In the sinking experiments, from 10 km. [32,800 ft.] altitude, typical altitude sickness occurred after about 2 minutes, i. e., at an altitude of about 8.6 km. [28,200 ft.], which was indicated by a very pronounced scrawling in the writing test. However, no loss of consciousness occurred. (Kloos' writing test.)

[page 7 of original]

The experiments from 12 to 15 km. altitude were made partly during suspension in a parachute harness, partly in a sitting position, and partly in a prone position. These experiments show that the body attitude has a very essential influence on the tolerance for a high degree of lack of oxygen. Since, besides this, every bodily exertion is of great importance, in one portion of the experiments six knee bends were made by the subject during the waiting period before beginning the descent. These six knee bends consisted of three knee bends while breathing oxygen followed by deep inhaling and holding of the breath, and then three more knee bends without oxygen breathing. This procedure was chosen in order not to neglect the bodily work involved in an actual parachute jump. The descending experiments from 12 km. [39,400 ft.] altitude yielded the following average times:

Table 1

Descending experiment from 12 km. [39,400 ft.]	Unconsciousness after—	Recovery of consciousness after—
Sitting without knee bends	1′ 39″=10.85 km. [35,600 ft.].	6′ 38″=7.45 km. [24,440 ft.].
Sitting after 6 knee bends	55″=11.4 km. [37,400 ft.].	6′ 55″=7.25 km. [23,786 ft.].
Suspended in parachute harness	37″=11.65 km. [38,220 ft.].	7′ 40″=6.77 km. [22,212 ft.].

It is to be noted in connection with the stated time and altitude values that the beginning of unconsciousness, or of the recovery, was

calculated from the withdrawal of oxygen, while in most experiments the sinking or free fall was begun at the expiration of the 10-second waiting period. Since in addition to this the stages of altitude were read off at the moment of unconsciousness, small variations from the times given in figs. 2 and 3 [not reproduced] are possible

[page 8 of original]

since, especially in the falling experiments, variations occurred because of the somewhat crude valve control. These variations, however, are small and may be overlooked since in any case the fall and sinking time under practical conditions are dependent on the flying attitude at the moment of the leap from the catapult seat. In addition to this, the calculated fall and sinking time are influenced to a high degree under actual conditions by weight and air resistance.

It should be kept in mind in regard to the experiments conducted in the sitting position that the subjects fell over at the beginning of unconsciousness and so passed the critical time of greatest load on the circulatory system in a prone position, while those suspended in the parachute harness remained throughout the experiment in a vertical position, the most unfavorable position for loading the circulatory system.

In the writing test shown above [not reproduced] the occurrence of altitude sickness in a sinking experiment for 12 km. [39,400 ft.] altitude is shown in this manner: For example, after 1 minute and 20 seconds at 11 km. [36,100 ft.] altitude, the writing is interrupted

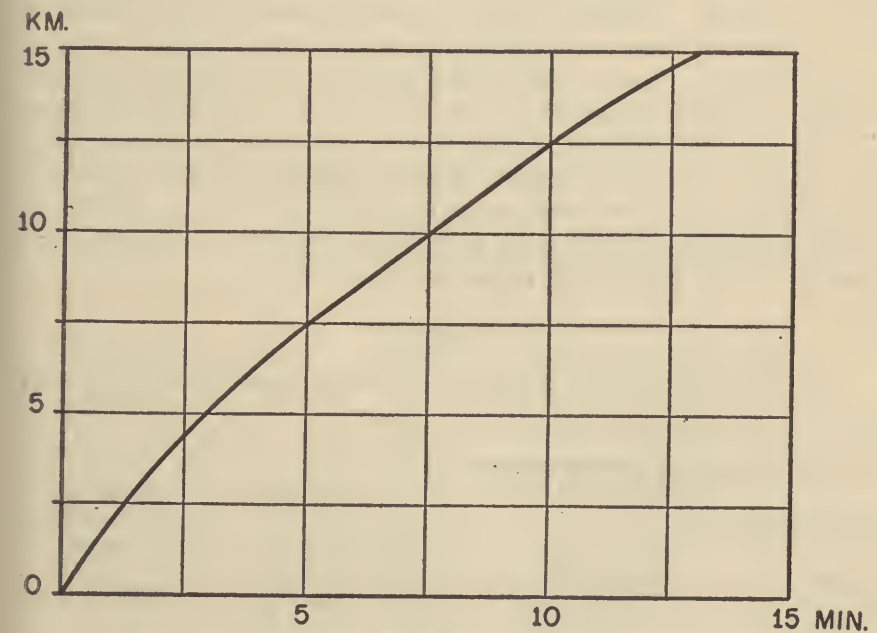

Figure 1. Speed of ascent in the portable low-pressure chamber.

because of sudden altitude sickness with unconsciousness, and is resumed after 4½ minutes at an altitude of 8.8 km. [28,870 ft.], with erroneous writing. At 8.3 km. [27,230 ft.] altitude the writing becomes free of errors. This is worthy of special attention because in this case a person has fully recovered mentally at an altitude of 8.3 km. [27,230 ft.], after 3 minutes of the most severe lack of oxygen, while in altitude endurance experiments at this altitude severe altitude sickness sets in after about 3 minutes. Here we are dealing with a process which in any case is very favorable but which is not yet entirely clear and which was already observed in earlier experiments of parachute jumps from great altitudes. Still, it appears from this that a rather long oxygen lack at altitudes up to 13 km. does not present any great strain in

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the sense of using the last reserves, but, on the contrary, the human organism seems to react to this loading with a certain increase in resistance to altitude.

In descending experiments from 13 km. [42,700 ft.] altitude the waiting time of 10 seconds was retained, but on the other hand exertion in the form of knee bends was omitted since technical difficulties interfered with this procedure.

The experiments involving suspension could be done only in the large low-pressure chamber, since suspension was impossible in the small low-pressure chamber for reasons of space. Therefore, the ascent to 13 km. [42,700 ft.] altitude was carried out slowly in the main chamber (without explosive decompression) so that when 13 km. [42,700 ft.] was reached a certain oxygen lack existed. With this oxygen lack the knee bends would have presented a great burden which would have falsified too greatly the results of the experiment. The same conditions were also given in further experiments at higher altitudes in the main chamber. For this reason, the 13 km. [42,700 ft.] descending experiments were carried out partly in the sitting position, partly in the sitting position strapped in, and partly suspended. They yielded the following average data:

Table 2

Descending experiment from 13 km. [42,700 ft.]	Unconsciousness after—	Recovery of consciousness after—
Seated (lying during unconsciousness)	50″=12.4 km. [40,672 ft.].	8′ 12″=7.2 km. [23,620 ft.].
Seated strapped in	35″=12.6 km. [41,340 ft.].	10′ 30″=5.85 km. [19,190 ft.].
Suspended	20″=12.8 km. [41,980 ft.].	19′=1.6 km. [5,250 ft.].

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Since in unfavorable cases in these experiments, namely while suspended, recovery of consciousness did not occur until 1.6 km. [5,250 ft.] altitude, it had to be concluded that in jumps from altitudes over 13 km. [42,700 ft.], recovery of consciousness would follow only after 0 km., which would mean that in an actual situation the landing would be made in an unconscious condition. This raised the question of a safe means of rescue.

Descending experiments were made in larger numbers from 15 km. altitude, since it became evident that at this altitude the approximate limits for what was possible in emergencies had already been reached or essentially surpassed. After an ascent made as rapidly as possible, using oxygen apparatus with free flow, the mask was removed immediately upon attaining 15 km. [49,200 ft.] altitude and the descent was begun. Since the results of these descending experiments were very typical and especially impressive it is necessary to present one of these experiments in detail. The record of an experiment is represented as follows:

15 km. [49,200 ft.]	Lets the mask fall, severe altitude sickness, clonic convulsions.
14.5 km. [47,560 ft.] 30 sec.	Opisthotonus.
14.3 km. [46,900 ft.] 45 sec.	Arms stretched stiffly forward; sits up like a dog ("Pfoetchenstellung"), legs spread stiffly apart.
13.7 km. [44,950 ft.] 1 min. 20 sec.	Suspended in opisthotonus.
13.2 km. [43,310 ft.] 1 min. 50 sec.	Agonal convulsive breathing.
12.2 km. [40,030 ft.] 3 min.	Dyspnea, hangs limp.
7.2 km. [23,620 ft.] 10 min.	Uncoordinated movements with the extremities.
6 km. [19,690 ft.] 12 min.	Clonic convulsions, groaning.
5.5 km. [18,040 ft.] 13 min.	Yells loudly.

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2.9 km. [9,520 ft.] 18 min.	Still yelling, convulses arms and legs, head sinks forward.
2–0 km. [6,560–0 ft.] 20–24.5 min.	Yells spasmodically, grimaces, bites his tongue.
0 km	Does not respond to speech, gives the impression of someone who is completely out of his mind.
5 min. (after reaching ground level).	Reacts for the first time to vocal stimulation.
7 min	Attempts upon command to arise, says in stereotyped manner: "No, please".
9 min	Stands up on command; severe ataxia; answers to all questions: "Just a minute". Tries spasmodically to recall his birth date.

10 min — Typical stereotypes of attitude and movement (catatonia); mumbles number to himself.

11 min — Holds his head turned convulsively to the right; tries repeatedly to answer the first question concerning his birth date.

12 min — Questions of the subject: "May I slice something?" (Note: In civilian work he was a delicatessen clerk.) "May I pant, will it be all right if I inhale?" Breathes deeply, then says, "All right, thank you very much."

15 min — On being ordered to walk, steps forward and says: "All right, thank you very much".

17 min — Gives his name; says he was born in 1928 (born 1 November 1908). Experimenter asks: "Where?" "Something 1928" "Profession?" "28—1928".

18 min — "May I inhale?" "Yes." "I am content with that."

25 min — Still the question continues: "Pant?"

28 min — Sees nothing; runs against open window sash upon which the sun is shining, so that large lump is formed on his forehead; says: "Excuse me please." No expression of pain.

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30 min — Knows his name and place of birth. Upon being asked for the day's date: "1 November 1928". Shivering of the legs; stupor continues; cannot be frightened by the report of a shot. Dark objects are still not discerned; subject bumps against them. Is aware of bright light; knows his profession; spacially disoriented.

37 min — Reacts to pain stimuli.

40 min — Begins to observe differences. Falls continually into his previous speech stereotypes.

50 min — Spacially oriented.

75 min — Still disoriented in time; retrogressive amnesia over 3 days.

24 hours — Normal condition again attained; has no recollection of the experiment itself.

The events of the descending experiments from 15 km., as shown here through this example, repeated themselves in a similar way in all the rest of the experiments. The average data from 20 experiments with 15 different subjects are as follows:

Table 3

15 km. [47,200 ft.]	Unconsciousness after—	Subconscious awakening movements	Clear consciousness at 0 km.
Suspended	16″=14.7 km. [48,220 ft.].	20½′=1.8 km. [5,910 ft.].	18′—90′
Lying	20″=14.6 km. [47,890 ft.].	14′= 5 km. [16,400 ft.].	15′—80′

Unconsciousness after discontinuation of oxygen occurs following a short motor restlessness with severe altitude sickness, whereupon light spasmodic and then very severe tonic convulsions follow in a condition of complete unconsciousness. These tonic convulsions lasting virtually a minute are followed rather suddenly by a phase of complete

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flacidity with a drop in breathing rate and transition to convulsive breathing with 3 to 4 breaths per minute until complete cessation of breathing of 45 seconds duration (post-hypoxemic pseudo-death—Lutz). Then follows a period of improvement in breathing, until the first subconsciousness movements announce the gradual recovery of consciousness, during which, nevertheless, the higher mental functions are temporarily entirely absent. Further recovery proceeds slowly during the course of the following ½ to 1½ hours as may be seen from the above case record. During the time of complete unconsciousness, there was defecation and urination in the case of most subjects, increased salivation and, in some cases, vomiting.

Here we obviously have the conditions which Lutz and Wendt in their animal experimentation which is referred to in greater detail later found in falling experimentation with O_2 breathing and designated as "post-hypoxemic twilight state" ("Posthypoxaemischen Daemmerzustand") since we are dealing with a slow recovery of consciousness, especially also in view of the mental behavior of the experimental subjects. The post hypoxemic pseudo-death observed by Wendt and Lutz was not found in any experiments in the form which they had observed. The severe condition described above we could designate as hypoxemic pseudo-death only because it was limited to the period of the most severe O_2 lack (on the average, between 13.3 and 12.3 km.).

In spite of the relatively large number of experiments, the actual cause of the severe mental disturbances and bodily failures (paralysis, blindness, etc.) attendant upon post-hypoxemic twilight state remains something of a riddle. It appeared often as though the phenomena of pressure drop sickness had combined with the results of severe oxygen lack. In this connection, the subjective accounts made by the authors in two experiments each were interesting. In the case of Ro. during a half hour stay at 12 km. [39,400 ft.] with oxygen,

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only the usual pains attendant with bends occurred. In a further experiment with a stay of 40 minutes duration at an altitude of between 13 [42,650 ft.] and 13.5 km. [44,290 ft.] there developed very gradually a condition of weakness, combined with a peculiar headache, which then led to a considerable slackening of strength in the arms

and hands. As a result of this, Ro. could no longer hold the breathing mouthpiece (for special reasons in these experiments, Ro. had to breathe with a mouthpiece and nose clamp) so that it slid out of his mouth. All these phenomena were still clearly observed by Ro. Ra. returned the mouthpiece to Ro. However at this point Ro. failed rather suddenly with paleness, strong cyanosis of the lips and complete unconsciousness. After Ro. had regained clear consciousness through descent and sufficient O_2 breathing, he determined the existence in himself of a complete paralysis of the legs, weakness of the arms and severe disturbances of vision. These serious disturbances developed although the time of oxygen lack and unconsciousness had lasted only about 5 seconds. Following descent soon after this to 0 km., the paralysis of the legs continued for about 5 minutes more and the very severe visual disturbances only cleared up after 2 hours. While this episode of Ro.'s occurred in an experiment at a special altitude, the disturbances occurred in Ra. at an altitude of between 12 [39,400 ft.] and 13 km. [42,700 ft.] while he was breathing sufficient oxygen with a mask and continuous flow into the circuit. After 10 minutes stay at this altitude, pains began on the right side with a spastic paralytic condition of the right leg which increased continually as though Ra.'s whole right side were being crushed between two presses. At the same time there were most severe headaches as though the skull were being burst apart. The pains became continually more severe so that at last the discontinuation of the experiment became necessary. The pains disappeared when ground level was reached while the disturbances of the right leg continued about 5 minutes more. Shortly before the

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second experiment, Ra. took two tablets of "Antineuralgica" (a coal tar derivative) and two tablets of pervitin. In the course of the experiments there occurred only light pains in the right arm and leg, moderate headaches, but a very severe uncontrollable urge to cough, actually less severe difficulties than in the foregoing experiment, although this one was made at 1,000 m. [3,280 ft.] higher.

Ro. experienced disturbances which in quality resembled the severe disturbances in the 15 km. [49,200 ft.] sinking experiment, although the degree of oxygen lack in this experiment was negligible in comparison to the 15 km. [49,200 ft.] experiment, so that the idea of a combination of pressure drop phenomena with the phenomena of oxygen lack is definitely suggested.

2. Descending experiments with O_2 breathing

Since obviously the utmost limits of these experiments had been reached with the descending experiments from 15 km. [49,200 ft.] without oxygen breathing, descending experiments with oxygen breathing were conducted from greater heights.

In the experiments, the following experimental procedure was chosen: ascent to 8 km. [26,300 ft.], remaining there 5 to 10 minutes with oxygen breathing; then turning on the oxygen blower explosive decompression to a predetermined altitude; 10 seconds waiting time (experiments from 17 [55,800 ft.] and 18 km. [59,100 ft.], altitude without waiting time) and descent at sinking speed. In order to imitate the perpendicular body position as occurs in suspension in a parachute harness, the experimental subjects had to stand during the experiments since suspension was not possible in the small decompression chamber.

In the descending experiments from 15 km. [49,200 ft.] altitude there was no altitude sickness or only a slight temporary kind. In the further descending experiments, the following results were obtained (Table 4):

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Table 4.—Descending experiments with oxygen breathing

Unconsciousness after—	From—	Recovery of consciousness after—
23 sec.=15.75 km. [51,660 ft.].	16 km. [52,500 ft.]---	2 min. 35 sec.=13.55 km. [44,460 ft.].
10 sec.=16.8 km. [55,120 ft.].	17 km. [55,800 ft.]---	3 min. 50 sec.=13 km. [42,700 ft.].
7 sec.=17.9 km. [58,740 ft.].	18 km. [59,100 ft.]---	10 min. 35 sec.=8.5 km. [27,890 ft.].

Thus it was shown that unconsciousness developed relatively early in spite of oxygen breathing, while the following convulsive stage ran its course in a much less severe form than in the experiments without oxygen breathing. Primarily spasmodic convulsions with only occasionally light tonic convulsions developed. Breathing paralysis never set in and upon recovery of consciousness the experimental subjects were again completely in control of themselves. The markedly quick development of unconsciousness was caused by the fact that the subjects were standing during the experiments (to be considered in comparison with the corresponding times in the falling experiments with oxygen breathing). Descending experiments from still greater altitudes were not undertaken, since in practice there is no need to escape from such altitudes with open parachute and thus to expose oneself to the danger of severe freezing.

3. Falling experiments without oxygen

Since the results of falling experiments from 12 km. altitude were known from earlier experimentation and indeed descending experiments up to 15 km. [49,200 ft.] without oxygen had been conducted within the scope of this work, falling experiments were begun at an altitude of 14 km. [45,900 ft.], in order not to increase unnecessarily the number of experiments.

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The ascent preceded by explosive decompression from 8 to 14 and 15 km. altitude, in which the ascent to 8 km. was made with oxygen and the explosive decompression with continuous flow, followed after 5 to 10 minutes waiting time. After the removal of the oxygen mask directly in connection with the explosive decompression, five knee bends were made during the waiting period of 10 seconds, then descent at free fall speed. During the explosive decompression the oxygen supply was interrupted from the outside. The results of these experiments were (Table 5):

Table 5.—Falling experiments without O_2 breathing

Unconsciousness after—	From—	Recovery of consciousness after—
30 sec.=13.2 km. [43,310 ft.]	14 km. [45,900 ft.]	65 sec.=9.7 km. [31,830 ft.].
28 sec.=14.3 km. [46,900 ft.]	15 km. [49,200 ft.]	96 sec.=7.6 km. [24,940 ft.].

The further experiments up to 20 km. [65,600 ft.] altitude were made with the same procedure as those up to 15 km. [49,200 ft.], although without knee bends during the waiting period of 10 seconds, since unconsciousness would have occurred too soon as a result of the knee bends and the experimenters had become convinced that rescue from these altitudes would have to be brought about by abandonment of the aircraft without bodily exertion (catapult seat).

[*Table 5*—Continued]

Unconsciousness after—	From—	Recovery of consciousness after—
32 sec.=14.7 km. [48,220 ft.]	16 km. [52,500 ft.]	118 sec.=6.6 km. [21,650 ft.].
27 sec.=15.9 km. [52,150 ft.]	17 km. [55,800 ft.]	126 sec.=6.3 km. [20,660 ft.].

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Unconsciousness after—	From—	Recovery of consciousness after—
23 sec.=17 km. [55,800 ft.]	18 km. [59,100 ft.]	156 sec.=4.6 km. [15,090 ft.].
20 sec.=18.5 km. [60,700 ft.]	19 km. [62,300 ft.]	173 sec.=3.7 km. [12,140 ft.].
17 sec.=19.75 km. [61,520 ft.]	20 km. [65,600 ft.]	178 sec.=3.2 km. [10,500 ft.].
15 sec.=20.875 km. [68,490 ft.].	21 km. [68,900 ft.]	1 min., 10 sec. after reaching 0 m.

From 21 km. [68,900 ft.] altitude only one experiment was made in this series, just as in the falling experiments, with oxygen breathing since the pumps achieved the evacuation of the main chamber necessary for a pressure drop to 21 km. altitude only after hours of overloading and the fact that the mercury barometer used in these experiments had its limit of measurement at this altitude. The two experiments were considered only as an orientation on the behavior of the human organism at this altitude at which the ebullition point of the blood had already been far surpassed. A systematic working over of these altitudes must be carried on with perfected measuring instruments and a two-stage pump aggregate in a new experimental series.

The result of this falling experiment from 21 km. altitude was made unreliable through the fact that the subject experienced a paralysis of breathing from 11 to 7 km., through which his recovery was doubtless greatly delayed. However, no permanent damage occurred.

4. Falling experiments with oxygen breathing

Falling experiments with oxygen breathing were undertaken only in small numbers for crude orientation for the following reasons: The alti-

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tude was limited by the available equipment to a maximum of 21 km. [68,900 ft.], but indeed from this altitude falling experiments without oxygen breathing had already been profitably carried out. It is self-evident that oxygen breathing during parachute jumps from such extreme altitudes greatly increases in any case the chances of success of the jump and, therefore, is to be unconditionally demanded. For that reason it devolved upon the experimenters only to determine to what degree the results of the experiments are influenced by oxygen breathing, especially in regard to the recovery of consciousness, which, of course, followed without oxygen only at relatively low altitudes. As was to be expected, these experiments showed clearly the favorable effect of oxygen breathing. (Table 6):

Table 6.—Falling experiments with oxygen breathing

Unconsciousness after—	From—	Recovery of consciousness after—
21 sec.=19.5 km. [63,980 ft.]	20 km. [65,600 ft.]	87 sec.=10.55 km. [34,620 ft.].
15 sec.=20.875 km. [68,490 ft.].	21 km. [68,900 ft.]	60 sec.=12.9 km. [42,320 ft.].

The astonishing value of 60 seconds=12.9 km. [42,320 ft.] for the recovery of consciousness in the 21 km. [68,900 ft.] experiment is explained on the basis that this value was obtained from a single

experiment with one subject, who had shown himself in numerous other experiments to be especially resistant to altitude. On the other hand the 20 km. [65,600 ft.] values are the average of a series of experiments.

III. Discussion of the Results

The descending experiments without oxygen show that the limit for a safe escape with an open parachute lies approximately at a jumping altitude of 13 km. [42,700 ft.], since in a jump from 13 km. [42,700 ft.] recovery of consciousness occurred only at an altitude of 1.6 km. [5,250 ft.], and so one must already consider the possibilities of landing in an unconscious condition with all the attendant dangers. This still does not take into account the heavy demands made on the body by the cold and the consequent risk. The great effect of the body position during the experiment makes it obvious how severe is the effect of every additional demand. While, for example, in the 13 km. [42,700 ft.], experiment upon a seated subject, recovery of consciousness took place after 8 minutes 12 seconds at an altitude of 7.2 km. [23,620 ft.], the suspended subjects recovered consciousness only after 19 minutes at 1.6 km. [5,250 ft.] altitude. Correspondingly also, unconsciousness occurred in the suspended subjects much more rapidly than in those who were seated. The same observation was made in the 15 km. [49,200 ft.] experiments, and indeed those who went through the experiment lying down could already state name and birth date immediately upon reaching ground level although they were paralyzed, while those who had been suspended did not respond at all to speech within this time. Except for one mentally very sluggish subject, the return of normal condition occurred much earlier to those who were lying down, namely within 15 minutes. The descending experiments extended to 18 km. [59,100 ft.] altitude with oxygen breathing showed that, except for the danger of cold, escape with an open parachute is possible from these altitudes even though, practically, no need exists for it.

Before we go into a discussion on the falling experiments it seems essential for us to cite the work of Lutz and Wendt on "Animal Experiments on Parachute Jumping from High-Pressure Cabins." Unfortunately this work was not available to us during these experiments so that we could not build upon the valuable results contained in it and derived from numerous animal experiments, or upon the experience of the authors. Although both authors approach with necessary scepticism the problem of "reaching decisions through animal experimentation upon questions in

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which, in the final analysis, the behavior of the human being in identical situations is of exclusive interest," they could, and had to depend

upon the previously proved experience that no fundamental qualitative differences in the manner of reaction to oxygen lack is to be expected between animals and human beings although there are considerable quantitative differences which, in this case, mean temporal differences. However, the results of our experiments show that to some extent quantitative as well as qualitative differences are present to the extent that the above animal experiments must lead to great fallacies which are significant to future developments. This appears especially in a comparison of results obtained with animals with the collective results of human experimentation upon escape from high altitudes through free fall without oxygen. On the basis of animal experiments, Lutz and Wendt were forced to the conclusion that if oxygen is breathed before the pressure drop "jumps from 14 km. [45,900 ft.] altitude can theoretically be survived—at any rate, that is the maximum altitude * * *," whereas we were able to carry out human experiments up to 21 km. [68,900 ft.] altitude without any harm whatever. In all experiments at 20 km. [65,600 ft.] the subjects recovered clear consciousness with spontaneous control above 3 km. [9,800 ft.], and so within a sufficient altitude for actual parachute jumping. As instructed before the experiment, the subject rang a cowbell hung up in the chamber by pulling a handle (the equivalent of pulling the rip cord) without a new order to do so, so that under actual conditions they would certainly have also pulled the rip cord at the right time.

Experiments with a pressure drop from 4 km. [13,100 ft.] without previous breathing in of oxygen were not carried out by us because we proceeded from the viewpoint that when contact with the enemy is possible, pressure cabin machines fly with a pressure corresponding to 8 km. [26,200 ft.] altitude and, therefore, the crews would already be breathing oxygen in case of a possible pressure drop as a result of damage to the cabin.

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Since the falling experiments without oxygen had already given such good results, falling experiments were begun only at 20 km. [65,600 ft.] altitude, and, because of the limitations described above, could be carried out only to 21 km. [68,900 ft.]. In these the results obtained by Lutz and Wendt were fully corroborated in this respect, that jumps from above 21 km. [68,900 ft.] can probably be made without danger, and that ebullition of the blood does not yet take place up to 21 km. [68,900 ft.] altitude. On the other hand in a falling experiment with human beings, neither a post-hypoxemic pseudo-death nor a post-hypoxemic twilight sleep were ever observed (Lutz).

In conclusion, we must make it particularly clear that, in view of the extreme experimental conditions in this whole experimental series, no fatality and no lasting injury due to oxygen lack occurred.

IV. Conclusions from the Results

For practical rescues by parachute jump from the highest and higher altitudes the experiments yielded the following:

The parachute jump without oxygen with immediate opening of the parachute is possible up to a jumping altitude of 13 km. [42,700 ft.]; the jump with oxygen equipment can be made at jumping altitudes up to 18 km. [59,100 ft.]. Advice must be given against jumping and immediate opening of the parachute since there is considerable danger of freezing and there is no need to pull the rip cord at high altitudes. However the experimental data give some indication of the chances of the parachute jumper whose parachute has become unfolded from whatever cause.

The jump with a free fall and opening of the parachute at low altitudes can be made without oxygen equipment up to altitudes of 20 km. [65,600 ft.], with oxygen up to 21 km. [68,900 ft.], and probably considerably higher.

In all the experiments at great height, even in experiments with oxygen breathing, unconsciousness occurred extraordinarily rapidly and was naturally preceded by loss of control before that. In one unfavorable case of a subject in the standing position during a descending experiment with oxygen, jumping from an altitude of 18 km. [59,100 ft.], unconsciousness occurred after 7 seconds. One may not count on a longer time than 10 seconds before loss of control occurs at high altitudes even with the body at rest. So within that time the airplane must be abandoned or at least one must activate the ejection seat. The technical solution of this problem must be found through a different approach. It is certain only that it will be impossible to climb out under one's own power, that one must avoid absolutely all bodily exertion, and that the time must be kept as short as possible. Rescue is still possible from very great heights; the critical part is the abandoning of the aircraft.

Oxygen equipment is absolutely necessary at these altitudes, since it assures the most favorable conditions for the jump. In case of failure of the equipment, loss of the mouthpiece or other mishaps, we still need not count upon serious disturbances or injuries up to 20 km. [65,600 ft.]. Even jumps from 21 km. [68,900 ft.] will go well if there is automatic opening of the parachute through barometrical control at 7 to 4 km. [23,000 to 13,100 ft.] altitude.

The automatic opening is also essential for several other reasons:

1. In particular cases the parachute jumper is not able to regain consciousness at a sufficient altitude above the ground because of collapse or injury.

2. As a result of cold the jumper may be handicapped by immobility of his hands, and thus be hindered in pulling the rip cord.

3. As a result of the unconsciousness resulting from anoxia, the

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parachute jumper loses all sense of the time which has elapsed since his jump, as was shown in all experiments, so that it is impossible for him, with failing eyesight, to estimate his altitude.

On the other hand it is desirable, on the basis of the reason adduced under number 3 above, that the opening of the parachute at altitudes above 7 km. [23,000 ft.] be prevented, since very often the parachute jumper would pull the rip cord immediately after recovering from his altitude sickness, which may be too soon and at too high an altitude.

The best conditions for explosive decompression itself and for the seconds elapsing until the appearance of altitude sickness are provided if flying is done at a cabin pressure corresponding to 8 km. [26,300 ft.] and with oxygen breathing.

Since it may become necessary to abandon the aircraft for reasons other than damage to the pressure cabin, the pressure equalization at a predetermined rate must be made possible by means of a valve.

In case abandonment does not appear necessary in spite of the loss of cabin pressure the danger of oxygen lack is still less with the automatic diving control mechanism than in a parachute jump, since the dive may be made with considerably greater rate of descent.

V. Summary

Experiments were instituted upon the possibility of rescue from altitudes up to 21 km. [68,900 ft.].

Without parachute oxygen equipment, rescue in descending experiments is still possible from 13 km. [42,700 ft.], with equipment, from 18 km. [59,100 ft.]. The danger arising from cold must be considered.

In falling experiments, rescue from 21 km. [68,900 ft.] altitude with and without oxygen was proved possible. Automatic parachute opening is necessary. Ebullition of the blood does not yet occur at 21 km. [68,900 ft.] altitude.

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Oxygen must be breathed before explosive decompression. Abandonment must be by means of the ejection seat. The dive to safe altitude offers good possibilities of rescue if abandonment of the plane is not necessary after loss of the cabin pressure.

Bibliography

Lutz and Wendt—"Animal Experiments on Parachute Jumping from High-Pressure Cabins." Communications in the Field of Aviation Medicine, Research Report 5/42.

Romberg—"The Parachute Jump from Great Heights." German Aviation Research, Research Report No. 1416.

TRANSLATION OF DOCUMENT 343–A–PS
PROSECUTION EXHIBIT 62

LETTER FROM MILCH TO WOLFF, 20 MAY 1942, REGARDING CONTINUATION OF EXPERIMENTS

Field Marshal Milch

Secret

Berlin W 8, 20 May 1942 Leipzigerstrasse 7

Dear Wolffy!

In reference to your telegram of 12 May our medical inspector reports to me that the altitude experiments carried out by the SS and Air Force at Dachau have been finished. Any continuation of these experiments seems essentially unreasonable. However the carrying out of experiments of some other kind, in regard to perils at high sea, would be important. These have been prepared in immediate agreement with the proper offices; Major (M. C.) Weltz will be charged with the execution and Captain (M. C.) Rascher will be made available until further orders in addition to his duties within the Medical Corps of the Air Corps. A change of these measures does not appear necessary, and an enlargement of the task is not considered pressing at this time.

The low-pressure chamber would not be needed for these low-temperature experiments. It is urgently needed at another place and therefore can no longer remain in Dachau.

I convey the special thanks from the Supreme Commander of the Air Corps to the SS for their extensive cooperation.

I remain with best wishes for you, in good comradeship and with

Heil Hitler!
Always yours
[Signed] E. Milch

SS Obergruppenfuehrer Wolff
Berlin SW 11.

TRANSLATION OF DOCUMENT 343–B–PS
PROSECUTION EXHIBIT 70

LETTER FROM MILCH TO HIMMLER, 31 AUGUST 1942, ACKNOWLEDGING RECEIPT OF REPORTS BY RASCHER AND ROMBERG ON HIGH-ALTITUDE EXPERIMENTS

Field Marshal Milch

Berlin, W 8, 31 Aug. 1942 Leipzigerstrasse 7

Dear Herr Himmler!

I thank you very much for your letter of 25 August. I have read with great interest the reports of Dr. Rascher and Dr. Romberg. I

am informed about the current experiments. I shall ask the two gentlemen to give a lecture combined with the showing of motion pictures to my men in the near future.

Hoping that it will be possible for me to see you on the occasion of my next visit to Headquarters, I remain with best regards and

Heil Hitler!

Yours,

[Signed] E. Milch

Reich Leader SS and Chief of the German Police Himmler
Berlin SW 11.

TRANSLATION OF DOCUMENT NO–289
PROSECUTION EXHIBIT 72

LETTER FROM HIPPKE TO HIMMLER, 8 OCTOBER 1942, THANKING THE LATTER FOR HIS ASSISTANCE IN HIGH-ALTITUDE EXPERIMENTS IN DACHAU

Berlin W 8, 8 October 1942 Leipziger Str. 7
Telephone 52 00 24

To the Chief of the German Police, Reich Fuehrer SS Himmler,
Berlin SW. 11, Prinz Albrecht Str. 8

Subject: Letter 1309/42 of 25 August 1942 to State Secretary Milch concerning experiments for rescue from high altitudes.

Very honored Reich Leader SS,

In the name of German research on aviation medical problems, I beg to thank you very obediently for the great help and all the interest shown in the Dachau experiments; these experiments form a complement which is, for us, of great value and importance.

The fact that an atmosphere with so little oxygen can be endured at all for some time is most encouraging for further research.

It is true that no conclusions as to the practice of parachuting can be drawn for the time being, as a very important factor, namely cold, has so far not yet been taken into consideration; it places an extraordinary excess burden on the entire body and its vital movements, so that the results in actual practice will very likely prove to be far more unfavorable than in the present experiments.

In the meantime the supplementary tasks required now have been begun. In part they will have to be finished only after completion of the new Research Institute for Aviation Medicine of the Reich Air Ministry in Tempelhof, whose low-pressure chamber will include all cold generating apparatus and also an installation for producing conditions at a height of 30 kilometers.

Freezing experiments in another direction are, in part, still being made at Dachau.

When the work will need once more your sympathetic assistance, may I be allowed to get in touch with you again through Stabsarzt Dr. Rascher?

Heil Hitler

[Signed] Prof. Dr. Hippke

TRANSLATION OF DOCUMENT NO–224
PROSECUTION EXHIBIT 76

NOTE BY ROMBERG ON SHOWING OF FILM IN OFFICE OF STATE SECRETARY MILCH, AND PROPOSED REPORT TO MILCH, 11 SEPTEMBER 1942

On 11 September 1942, at 9:45 o'clock, Stabsarzt Dr. Rascher and Dr. Romberg met, according to telephonic and oral agreements with Colonel Pendele, in the antechamber of the State Secretary. We were informed that the State Secretary had ordered this conference at the present stage, in the course of which a report on experiments concerning "rescue from great heights" was to be made, and the motion picture concerning these experiments was to be shown. The gentlemen waiting in the antechamber of the State Secretary and in the corridor (most of them from the experimental staff) were informed that previous to the conference a motion picture was to be shown, so that all went to the projection room on the fifth floor. Here quite a large number of people were already present, so that 30–40 persons were there in all. Among them were officers, medical and engineer officers—we know some of them personally—some whose presence surprised us in view of the top secret nature of the motion picture and of the experiments. No checking of the persons present was done, nor was there an attendance list. As, after a short time of waiting, the State Secretary had not come, the motion picture was shown, without giving us an opportunity for preliminary or explanatory remarks. During the intermission between the two parts of the motion picture, Dr. Rascher referred once more to the strict obligation of secrecy ordered by the Reich Leader SS. After completion of the showing of the motion picture—the State Secretary had not come, as he had been summoned to see the Reich Marshal [Goering]—the persons present still talked a little while about the motion picture, on which occasion less interest was shown in the subject itself than in the place of the experiments and the individuals who had been the subjects. After this period of time, during which we were neither called upon to make any statements whatsoever nor were we, considering the great forum and the absence of the State Secretary, inclined to give any reports the

greater part of those present went back to the development conference, while Oberstarzt Wuerfler, Oberstarzt Professor Kalk, Stabsarzt Bruehl and Regierungsrat Benzinger asked us to make a report to a small medical circle. As, however, the State Secretary had prohibited that any report be made before the distribution had been decided on, we refused to disclose the results of the experiments. Oberstarzt Kalk stated that he was willing to report to the State Secretary our wishes concerning the distribution of the report and the continuation of the experiments. The film was handed to Colonel Vorwald.

According to the conference with Obersturmbannfuehrer Sievers, I tried to get the film back on the same day, but Colonel Vorwald was still at the development conference. When I telephoned the next day and requested that the film be handed back, Colonel Vorwald declared that he would like to keep the film until after Sunday, 13 September, since on this day the Reich Marshal was coming and might perhaps desire to see the film. Accordingly, I let Colonel Vorwald keep the film for that day. On 14 September, I went to fetch the film from Colonel Vorwald, and was informed that it had not been shown. On the same day I spoke with Stabsarzt Bruehl, who informed me that Oberstarzt Kalk had transmitted, still on 11 September, our wishes concerning distribution and confirmation of the experiments to the State Secretary. The State Secretary had approved the distribution schedule, and said that a continuation of the experiments was not urgent. A few days later the distribution schedule accepted by the State Secretary was sent to the German Aviation Research Institute by Colonel Pendele, and the report was subsequently transmitted by the Institute to the offices concerned. Since that time I have not received any news either concerning the film or concerning the report.

[Signed] Dr. Romberg

TRANSLATION OF DOCUMENT 1612-PS
PROSECUTION EXHIBIT 79

LETTER FROM RUDOLF BRANDT TO RASCHER, 13 DECEMBER 1942, AND HIMMLER'S ORDER ASSIGNING RASCHER TO HIGH-ALTITUDE EXPERIMENTS

The Reich Leader SS

Field Command Post
[Rubber stamp]: Personal Staff of Reich Leader SS
Documentation Section
File No.: Confidential
Field Command Post, 13 December 1942

The Reich Leader SS
Personal Staff
Journal No. 19/10/43 g, Bra/Secret
1. Hauptsturmfuehrer Dr. med. Rascher
[illegible] * * * SS
2. Reich Leader SS Berlin
3. Medical Office in SS Fuehrungshauptamt (SS Operational Main Office) Berlin
4. SS Obergruppenfuehrer Pohl, Berlin
5. Ahnenerbe Berlin-Dahlem

Enclosed I am sending you a letter of the Reich Leader SS (copy of same) with an order for SS Hauptsturmfuehrer Dr. Rascher.

You are requested to duly note and accord needed assistance to Hauptsturmfuehrer Dr. Rascher in the carrying through of his experiments.

By order

[Initialed] B.
SS Obersturmbannfuehrer

Prinz Albrechtstrasse
[Rubber stamp] Personal Staff of Reich Leader SS
Documentation Section
Journal No.: Confidential

SS Hauptsturmfuehrer Dr. Rascher is being assigned by me to carry through the following experiments:

1. Low-pressure chamber experiments—to be carried out under conditions corresponding to those actually prevailing under normal operating conditions—for rescue from high and extremely high altitudes. Determination of changes in chemical equilibrium, as well as gas equilibrium of human body. Experiments are to be repeated until a scientifically incontestable basis for findings is established. Testing of pressure-proof protection garments for the highest alti-

tudes to be carried out with the assistance of manufacturers of such protective suits.

2. Tests for reimparting warmth after total chilling of the human body, recording all changes of chemical and gas characteristics, are to be further continued until complete clarification of doubtful questions. I attach particular value to conditions for experiments coming as close to actual conditions as possible, particularly as regards reimpartation of warmth. Sauna equipment available in Dachau should be used in connection with experiments on reimpartation of warmth.

3. Experiments on removal of effects due to freezing of parts of human system, especially the extremities, to be carried through in suitable form (e. g. applications with Gastein water).

4. Experiments concerned with adaptation to freezing cold in snow huts (igloos) to be carried out under varying diets in order to establish whether adaptation to cold [German text says "Gewaehrung", i. e. consent, which evidently is a typographical error] and resistance increase against freezing is possible. These experiments are to be carried out on the site of the SS Mountain Retreat Sudelfeld.

5. The procurement of the apparatus needed for all the experiments should be discussed in detail with the offices of the Reicharzt SS, of the SS Main Office for Economic Administration and with the Ahnenerbe. The necessary chemical products, medical supplies, and glassware will be made available by the SS Medical Office, Berlin.

6. Publication of results obtained in such tests subject to my approval only.

[Signed] H. HIMMLER

EXTRACTS FROM THE TESTIMONY OF TRIBUNAL WITNESS WALTER NEFF*

EXAMINATION BY PROSECUTION

* * * * * * *

MR. MCHANEY: * * * When did the high-altitude experiments begin in Dachau?

WITNESS NEFF: The first high-altitude experiments were on 22 February 1942. The so-called low-pressure chambers had been brought in earlier and dismounted. The exact time when the chambers came is not known to me.

Q. Why do you remember the date when the first experiments were made in the low-pressure chambers so well?

A. The 22d of February is my birthday and the tubercular patients gave a party for me. On that date the experiments started, and that is why I remember the date.

* * * * * * *

*Complete testimony is recorded in mimeographed transcript, December 17–18, 1947, pp. 595–695.

Q. Will you tell the Tribunal who worked on these experiments?

A. The experiments were conducted by Dr. Rascher and Dr. Romberg. Ten prisoners were selected and were taken to the station as permanent experimental subjects; and they were told that nothing would happen to them. In the beginning, the first 3 weeks, the experiments went off without incident. One day, however, Rascher told me the next day he was going to make a serious experiment and that he would need 16 Russians who had been condemned to death, and he received these Russians. Then I told Rascher that I would not help, and I actually got Rascher to send me away to the tubercular ward. On that day I know for certain that Rascher's SS man Endres or other SS men conducted these experiments. Dr. Romberg was not there that day. The SS man Endres took the Russian prisoners of war to Rascher and in the evening the parties were taken out. On the next day when I returned to the station, Endres was already there and he said that two more, two Jews, would be killed. I am quoting what he said. I left the station again, but I watched to see who would be taken for the experiments. I saw the first one getting into the car. I could only see his profile. It seemed familiar to me. I knew that man worked in the hospital as a tailor. I tried to find out if it was really that man. I went to the place where he worked, and I was told that Endres had just taken the man away. The first person that I informed was Dr. Romberg whom I met in the corridor. I told Romberg that this was not a person who had been condemned to death, that this was a clear case of murder on the responsibility of Endres. Romberg went with me to see Rascher to clear the matter up, but it was discovered that Endres had put this man in the experimental car because he had refused to make a civilian suit for him. Rascher sent the man back; Endres went with him and remarked: "Well, then you will get an injection today." I must say that Rascher interfered once more and put the man in safety into the bunker. In the meantime, Endres had brought a second man up, a Czech, whom I knew very well. Again it was Romberg together with me who talked to Rascher to stop this experiment or to inquire why a man like Endres was simply taking people who had never been condemned to death. Rascher went to the camp commandant, Piorkowski, who personally came to the station and Endres was transferred to Lublin immediately.

And now I come to the subject: it was actually the day on which my comrade and I reached the decision that under all circumstances, no matter what happened, I would not remain at this——

Q. Now, Witness, let me interrupt you just a minute. We will come back and you can tell the full story then.

* * * * * * *

PRESIDING JUDGE BEALS: I will ask the Secretary General to turn this book over to counsel for the prosecution, and defense counsel may examine the book.

MR. MCHANEY: Now, Witness, before the recess, you had been telling the Tribunal about the high-altitude experiments which you stated began on 22 February 1942, and you had related how early in March Rascher had experimented upon some 15 Russians who were killed and you stated that neither you nor the defendant Romberg were present on that occasion and you then had gone on to relate that an SS man in Dachau named Endres had brought in the tailor at the camp and wanted him to be experimented upon and how you recognized the tailor and interceded with Romberg and had this man returned. Now, before you continue with your story, I would like to put some specific questions to you. It is true, is it not, that concentration camp inmates were experimented on during these high-altitude experiments?

WITNESS NEFF: Yes.

Q. About how many concentration camp inmates were subjected to these high-altitude experiments?

A. There were 180 to 200 inmates who were subjected to the high-altitude experiments.

Q. When, to the best of your recollection, did the high-altitude experiments end?

A. The incident of the dead—I am afraid I didn't quite get your question. Will you repeat it?

Q. I am asking you, Witness, when the high-altitude experiments ended, that is, when they were completed.

A. During the course of June—maybe the beginning of July, the low-pressure chambers were taken away. I don't recollect the exact date, however.

Q. And you state that between 22 February 1942 and the end of June, or the beginning of July 1942, approximately 180 to 200 concentration camp inmates were experimented on?

A. Yes.

Q. What nationalities were the experimental subjects?

A. I cannot say that with certainty but I think that approximately all nations were represented there; that is, all nations that were in the camp, mostly Russians, Poles, Germans, and Jews belonging to any nation. I do not remember any other nationalities being represented there.

Q. Were any of these experimental subjects prisoners of war?

A. Yes.

Q. What nationalities were they? Do you recall?

A. They were Russians.

Q. Now, will you tell the Tribunal how these experimental subjects were selected?

A. The experimental subjects who had to be subjected to severe experiments, experiments that would end in death, were requested by Rascher from the camp administration and then furnished by the SS; however, this procedure differed with the so-called series of experiments and a number of other experiments. For those experiments, the people were brought into the experimental station straight from the camp, that is, from the blocks.

Q. Now, did they, to your knowledge, make any effort in the camp to secure volunteers for these experiments?

A. There were certain volunteers for these experiments. That was because Rascher promised certain persons that they would be released from the camp if they underwent these experiments. He sometimes promised them that they would be detailed to more favorable work.

Q. Now, about how many of such volunteers would you say there were for the high-altitude experiments?

A. I do not know the exact number. It was not very high; approximately 10 inmates volunteered for that purpose.

Q. Did these volunteers come one at a time, or did they come in a body, or just how did they present themselves to the experimental stations?

A. Rascher moved around the camp quite a lot and on that occasion the inmates spoke to him.

Q. In other words, the camp officials and Rascher and Romberg made no effort to find volunteers, did they?

A. I don't know, but I should not think so. I should not think that they made great efforts to get volunteers.

Q. Now, other than these approximately 10 persons who you state presented themselves as volunteers, were all the rest of the experimental subjects simply picked out and brought in and experimented on?

A. Yes.

Q. Were any of these prisoners experimented upon released from the concentration camp because they underwent the experiments?

A. There is only one man who was released after the high-altitude experiments.

Q. And who was that?

A. An inmate with the name of Sobota.

Q. And did Sobota assist Rascher in his experimental work other than simply undergoing the experiment? Was he something in the nature of an assistant to Rascher?

A. No. Sobota was one of those persons who had to undergo most of the experiments and he was also used on one experiment which was conducted in the presence of the Reich Leader SS. On that occasion he was asked by the Reich Leader how long he had been in the camp and

he promised him that he would be released. He was later sent to the Group Dirlewanger.

Q. Was it considered a privilege to be released to the Group Dirlewanger?

A. No. The inmates who later were forced to transfer to the Group Dirlewanger thought that this was the worst thing that could happen to them.

Q. Will you tell the Tribunal just what the Group Dirlewanger was?

A. The Group Dirlewanger was an SS division who received their education in Oranienburg and who were used for special purposes. At one time 200 German political inmates in this group were transferred to Russia. All persons who were forced to join this group were very disgusted at being forced to join the SS and fight for them. They considered being selected to join the SS as the very worst disgrace.

Q. Was the Dirlewanger a special commando group?

A. Yes, it was a special commando group and was assigned to the most dangerous spots. However, I only know that from comrades to whom I have spoken about this matter after the liberation.

Q. Other than the prisoner Sobota, were there any other concentration camp inmates released as a result of undergoing the high-altitude experiments?

A. I know of no case except Sobota.

Q. Do you know of any cases where a prisoner condemned to death had his sentence commuted to life imprisonment because he underwent the high-altitude experiments?

A. No.

Q. Witness, were any political prisoners used in these high-altitude experiments?

A. Yes, there were political prisoners who were used in these experiments. All foreigners were considered political prisoners.

Q. Witness, tell the Tribunal how one could tell the difference between a political and a criminal prisoner in a concentration camp?

A. All inmates had certain squares with letters; the political inmates had red squares; the German political inmates had a plain red square; the Poles had a red square with a "P" marked on it; the Russians with an "R"; all nationalities could be identified by the first letter of their country. The red square with a yellow star was the Jew. The green square, on the other hand was the sign of the so-called professional criminal. Here it must be said that there were quite a number of people with green squares who did not fall under the classification of professional criminals, but who were sent to the camp with that square since the Gestapo could find no excuse to send them into the camp as political prisoners.

Q. Now, was this square really a square or a triangle?

A. It was really a triangle with the head of the triangle pointed down to the earth. If it pointed upward, it indicated a member of the Wehrmacht who was sent to the camp for punishment.

* * * * * * *

Q. Witness, were any Jews experimented on in these high-altitude experiments?

A. Yes.

Q. Now, tell the Tribunal approximately how many prisoners were killed during the course of the high-altitude experiments?

A. During the high-altitude experiments 70 to 80 persons were killed.

Q. Did they experiment on prisoners other than those condemned to death?

A. Yes.

Q. Were any of those prisoners who had not been condemned to death killed during the course of the high-altitude experiments?

A. Yes.

Q. Do you have any idea how many may have been killed?

A. There could have been approximately 40 persons.

Q. That is, 40 persons were killed, who had not been condemned to death, out of a total of 70, did you say?

A. Yes.

Q. Now, were some of those killed political prisoners?

A. Yes.

Q. Is there any way of telling whether or not a prisoner had been condemned to death—that is, when the experimental subject arrived in the pressure chamber, was there any way to know whether he had been condemned to death?

A. Once the experimental subjects came from the Bunker, that is, if the SS brought them out, we could always tell they were prisoners who had been condemned to death. When the inmates were sent by the camp leader, and were brought there by him, then we could also tell they were persons who came from the camp, and that they were not persons who had been condemned to death.

Q. Could Romberg know this just as you did?

A. He could only know it if he tried to find out about it, because he could hardly differentiate whether the person concerned came from the Bunker or came from the camps.

Q. But you could tell that yourself?

A. Yes.

Q. Did Romberg ever ask you whether or not these experimental subjects had been condemned to death?

A. I do not remember Romberg ever asking me about that.

Q. Were records kept in the concentration camp which showed whether or not a man had been condemned to death?

A. Yes.

Q. Do you know whether Romberg ever checked these records?

A. I do not know that.

Q. You do not know if he ever checked them, is that right?

A. No.

Q. Can you remember, approximately, how many deaths Romberg witnessed during these high-altitude experiments, if any?

A. I can remember five cases where Romberg was present during cases of death; whether he was present on other occasions, I do not know. It is possible, but I am not sure of it.

Q. You are sure of only five cases?

A. Yes.

Q. Did Romberg ever make any objections concerning these deaths?

A. I do not know of Romberg having made any protests against it.

Q. He did not make any protest in your presence?

A. Only at the time when we were concerned with the incident which I spoke of earlier. I do not know anything about anything else.

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EXTRACTS FROM THE TESTIMONY OF DEFENDANT RUDOLF BRANDT *

DIRECT EXAMINATION

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DR. KAUFFMANN: Now I should like to speak to you about Document Book No. 2, concerning the high-altitude experiments of Dr. Rascher. You said this morning that you knew Rascher?

DEFENDANT RUDOLF BRANDT: Yes.

Q. Did you see him frequently?

A. Very few times in the course of 4 to 5 years.

Q. Did he come to your office and speak with you?

A. Twice when I was about to leave Munich by train, he and his wife brought a letter for Himmler to the station and gave it to me.

Q. And what did he want when he came to Himmler's front office and saw you?

A. Either he brought a report or a letter; as I said, this could not have happened more than 4 or 5 times.

Q. Were you ever present when Himmler talked with Rascher?

A. No. I was never present at those conferences.

Q. Did Rascher ever tell you personally, either before or after a conference with Himmler, why he had come?

A. No. Afterwards we never spoke about these visits because I had no time for that.

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*Complete testimony is recorded in mimeographed transcript, March 24, 25, and 26, 1947, pp. 4869–4994.

Q. But you do not want to deny that you knew that Rascher was carrying out experiments on human beings in Dachau?

A. Yes, that I knew.

Q. Did you ever visit Dachau yourself?

A. No. I was never in Dachau nor in any other concentration camp.

Q. Did you yourself ever take part in experiments on human beings?

A. No.

Q. Did you see these photographs which are supplements to the document books?

A. I cannot recall ever having seen them.

Q. Now, please turn to page 53. This is a letter from Rascher to Himmler in which he makes suggestions to Himmler for the first time that human being experiments should be carried out in Dachau. In this letter he says that in these experiments he would certainly have to count on fatal consequences for some of the subjects. Do you remember receiving this letter? If not, can you say how you probably would have handled this letter when it came?

A. I do not remember the letter. As in all cases I certainly would have put this letter among the mail that Himmler would read personally, after one glance through it had assured me that it was a medical matter in which Himmler was generally interested.

DR. KAUFFMAN: We are speaking now, your Honor, of 1602–PS, Prosecution Exhibit 44.

Q. Now, please look at page 57 of the German document book. This is 1582–PS, Prosecution Exhibit 45, a letter from you to Rascher in which you tell him that, of course, prisoners will gladly be made available for high-altitude experimentation. Was this letter written on your own initiative or is it a case similar to all the others that you have brought up here, namely, a letter written on orders from Himmler?

A. This letter does not originate with me. It can be traced back to clear orders from Himmler.

Q. Now, please take a look at 1581–A–PS, Prosecution Exhibit 48, a letter that bears your signature, addressed to Sievers. Here you write that low-pressure experiments are being carried out by the Luftwaffe in Dachau on prisoners there. Then look at the next Document, 1971–A–PS, Prosecution Exhibit 49, a letter from Rascher to Himmler. In the first sentence of this letter there is mention of an enclosed interim report, and there is no doubt that this interim report was enclosed. Now, did you read this interim report?

A. I should assume that I did not because firstly, such medical reports were quite incomprehensible to me as a layman; and, secondly, because of all the work which I had to do, I did not have enough time

to concern myself with reports which, first of all, I didn't understand and, secondly, did not interest me. Thus it is that I put this report in with the mail that Himmler was to read without reading it myself.

Q. Now, please look at 1971–D–PS, Prosecution Exhibit 52, apparently a teletype message from Rascher to you. Here Rascher asks whether Poles and Russians are also to be pardoned if they have survived several severe experiments. In 1971–E–PS, Prosecution Exhibit 53, your answer is to be found, a teletype message to Obersturmfuehrer Schnitzler in Munich. In this letter you say that experimental subjects are not to be pardoned if they are Poles or Russians. This document was given particular stress by the prosecution, and its cruel and atrocious nature was emphasized. Do you remember this document or can you give us any explanation of how it came about that you signed this teletype message?

A. I cannot remember this communication. Of course, I cannot here state under oath whether this is one of those cases in which a teletype message was sent on Himmler's orders with my signature to it. It is also quite possible that I saw this message and knew its contents and sent it off, after receiving instructions from Himmler.

Q. But I should think that you would still remember a document with such contents today; and yet you say that you do not remember it?

A. No, I do not. In view of the enormous number of orders that I got from Himmler, I could not concern myself enough with the details of each matter in order to be able to remember them for any length of time.

Q. Do you perhaps know whether you discussed this matter with Himmler and then waited for his orders?

A. I cannot say that. I assume that I put the teletype message among his mail and then received his instructions along with all the rest of his orders.

Q. Now, I want to discuss NO–402, Prosecution Exhibit 66. This is a letter to the German Research Institute for Aviation. This letter accompanies a long report, the subject of which is rescuing pilots from high altitudes. Do you have that report now in front of you?

A. Yes.

Q. Did you work on this report or at least give a cursory glance at it?

A. I certainly did not work on it, and I did not even give it a cursory glance, first of all because it is a medical report, and secondly, because it is much too long.

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EXTRACTS FROM THE TESTIMONY OF DEFENDANT ROMBERG *

DIRECT EXAMINATION

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DR. VORWERK: Now, we'll go back to the point of Rascher's position in the experiment.

DEFENDANT ROMBERG: I said that without Rascher there would never have been any intention of carrying out the experiments and it would never have been possible. This can be seen from Himmler's original assignment. Practical proof of this is the fact that the experiments were stopped immediately when there were difficulties with Rascher's assignment. This is proved by the letter from Frau Rascher to the Reich Leader SS, dated 24 February 1942. (*NO-263, Pros. Ex. 47.*) In this letter Frau Rascher writes that there were difficulties of command and that the experiments were stopped; that Rascher had gone back to Schongau. That was the time when I went back to Berlin. Later on when the experiments were actually carried out, Rascher had expressly forbidden me to perform experiments in Dachau without his permission or his presence, so that I never did perform any experiments without Rascher. I always waited until he was there. On the days when he was in Schongau no experiments were performed. Generally, I did not even go to the experimental station. Sometimes I went to write—but certainly never to carry out experiments. This rule, although, of course, it often delayed the work, seemed justified to me because Rascher had permission from Himmler to perform these experiments and was responsible to him for the experimental subjects. Also, I myself was under the authority of the camp at Dachau which seriously restricted my independence, for example, my freedom of movement or talking to prisoners and similar things. Rascher himself, on the other hand, had a very free position on the basis of the powers which he had received from Himmler and because of a special pass. The Dachau camp was under Himmler's authority. This is shown by the letter from Himmler to Milch of November 1942. (*1617-PS, Pros. Ex. 77* (*Pros. Ex. 111, Milch Case*).) In this letter Himmler spoke of Holzloehner's conduct and adds that the Dachau camp was under his orders, and Holzloehner would have to submit. It was under these conditions that Rascher took the low-pressure chamber from the SS in Munich and set it up there.

Q. Who took care of the maintenance work on the chamber during the experiments?

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*Complete testimony is recorded in mimeographed transcript, May 1, 2, 3, 4, 5, and 6, 1947, pp. 6764-7032.

A. There was not a great deal of maintenance work necessary; loading the batteries or supplying the oxygen for the experiments was taken care of by Rascher and was probably paid for by the camp.

Q. Was Rascher responsible to you for that?

A. No, Rascher was not responsible to me at all. He was responsible to the Medical Inspectorate because the chamber belonged to them.

Q. Did you have an opportunity to give Rascher any orders or instructions, or to prohibit anything?

A. No, that can no doubt be seen from what I have already said. I could not give him any orders. I certainly could not forbid him to do anything. Concerning the conduct of these experiments on rescue from high altitudes, I merely had a certain advisory right as is customary for two scientists who are working together on the same task when one of the two has greater knowledge pertinent to the specific task.

Q. You said the experiments began on 22 or 23 February; was that when you saw the experimental subjects for the first time?

A. Yes. On that day I went out to Dachau with Rascher for the first time and met the experimental subjects for the first time.

Q. About how many were there?

A. There were 10 or 12.

Q. Could it have been 5?

A. Five? No, there were certainly more than that.

Q. Could it have been 15?

A. Yes, that is possible.

Q. Did you talk to the experimental subjects on that day before the experiments began?

A. I believe on that day we mostly talked. Whether any proper experiments were done at all on that first day, I don't remember. At any rate I talked to the experimental subjects and got to know them a little on the first day.

Q. What did you talk about with the experimental subjects?

A. They were quite new surroundings for me, of course. They were all professional criminals who were in custody.

Q. How do you know that?

A. They told me that gradually in the course of conversation. They didn't, of course, have complete confidence on the first day and did not tell me all about their previous convictions. But after careful inquiries one discovered that they had been condemned for certain crimes, repeatedly convicted, and finally had been condemned to protective custody.

Q. Why did you talk to the experimental subjects on this day?

A. It is quite natural when one begins to work with such a group that a certain personal contact is necessary. We had to get to know each other. I talked to them about their profession, if I may call it

that, and of course I told them something about the experiments, what the whole thing was all about, what they themselves had to do to cooperate in the same way as my usual experimental subjects.

Q. Was the reason for this investigation to prepare the subjects for their activity or to check whether these people were actually volunteers?

A. No. It was more to get to know the subjects personally. The situation was this: in the discussion with the camp commandant on the basis of the agreement with Rascher and his authorization from Himmler, a very definite agreement had been reached to the effect that these people were to be selected from the volunteers. Therefore, a clear agreement had been reached on the conditions, about which there could be no doubts basically. When I met the subjects for the first time personally and talked to them about the principle of the experiments and their duties, and so forth, of course I also inquired why they had volunteered—not because of any distrust of the camp commandant, but just for that reason.

Q. You thought, accordingly, that they were volunteers?

A. I didn't only think they were. They told me so themselves.

Q. How do you know that so definitely for each case?

A. In the course of time—not on the first day but in the course of time—I talked to all of them frequently in some detail, and gradually they told me about their previous convictions and what other prisons and penitentiaries they had been in before they came to the camp, and they also told me the reasons why they had volunteered.

Q. Do you mean to say that all the experimental subjects used for the high-altitude experiments were volunteers?

A. Yes.

Q. Now before these subjects entered the chamber did you prepare them for what they had to do and tell them the significance of the whole thing?

A. Yes, of course. First I explained the whole question to them in broad outline, so that they would know what it was about and what the purpose of the experiment was. In detail I told them specifically what they had to do in the experiments. There was the writing test during which they had to write numbers from 1,000 backwards; then the cardinal point was that after the altitude sickness during the experiments, as soon as they came to, they had to pull the rip cord. We had a handle in the chamber connected to a bell. This was to represent pulling the rip cord of the parachute. This had to be explained to them carefully, otherwise they wouldn't have understood it and wouldn't have reacted correctly.

Q. Now, before the experiments began, did you have an electrocardiogram of each separate subject?

A. Yes and again later on.

Q. Please explain that.

A. Rascher had first examined the people to see if they were suitable for the experiments, so there would be no heart defects or anything like that. Then in order to get an exact control, before the beginning of the experiments we took an electrocardiogram of all the subjects. In almost all the experiments the electrocardiograms were registered and at the end, when the experiments were finished, we took another electrocardiogram of all the subjects in order to have material because perhaps even if there was no visible injury, there might still be some effects which could only be determined by such tests.

Q. Now, how long did these experiments on rescue from high altitude last, approximately?

A. Well, they really began on about 10 or 11 March and they lasted until 19 or 20 May.

Q. Following that, you prepared the report which has been submitted by the prosecution?

A. Yes.

Q. In this report you have a sentence saying that during the experiments on rescue from high altitudes there were no deaths and there had been no injury to health; is that correct?

A. Yes, it is correct that that sentence is in the report, and it is also true that there were no deaths or other injuries.

Q. But here in the testimony of the witness Neff you heard that there were deaths?

A. Yes.

Q. What do you have to say about that?

A. In addition to our joint experiments on rescue from high altitudes, Rascher conducted experiments of his own. He did not tell me the exact problem; he merely said that he was performing these experiments for Himmler and that they had to do with explosive decompression sickness and electrocardiograms. He had apparently carried out secret experiments for some time on this problem, but then in my presence he continued them with special subjects. In the course of these experiments the first death occurred at the end of April in my presence. He told me in the course of our conversations that he wanted to qualify as a lecturer on the basis of these experiments which were ordered by Himmler. He wanted to get Dr. Fahrenkamp into it but this cooperation never came about because the experiments were broken off.

Before this death I had no reason to object to the experiments in any way since Rascher was using other subjects and had a separate assignment from Himmler for them. My assignment was to perform the experiments on rescue from high altitudes and I carried it out together with Rascher.

Q. How many deaths took place in your presence?

A. Three.

Q. But Neff spoke of five deaths at which you were present.

A. There could only have been three.

Q. Why could there only have been three?

A. Because I remember. After all they were deaths and they made a definite impression on me; I know it.

Q. Why did death in the low-pressure chamber make such an impression on you?

A. In the innumerable low-pressure-chamber experiments not only performed by us, but everywhere in Germany in other institutes, we never had any deaths at all, and the opinion at that time was that any necessary problem of aviation medicine could be solved without deaths.

Q. Now, how did it happen that you were present at these deaths, since you say these experiments did not belong to your series of experiments?

A. At the beginning of April or in the middle of April, Rascher told me for the first time that he was performing experiments with slow ascension and that he had attempted to work with Fahrenkamp but the work had been interrupted when the latter was sent away. I said that had nothing to do with our experiments and was quite unimportant and uninteresting from our point of view. He admitted that, but said it was a specific question which especially interested him personally and which he had to work on. I did not see these experiments, which according to records here lasted 8 to 10 hours. He probably always performed them on the days I was absent because these 8 to 10 hours would have interfered considerably with our experiments. He expanded these experiments and performed time-reserve experiments at certain altitudes to test the adaptation which he had been testing before in the slow-ascension experiments. This was an experiment in which the subject remains at the same altitude, in contrast to the falling or sinking experiments where the pressure is constantly increased, that is, when the altitude is decreased. As his interim reports show, he extended these experiments to high altitudes and the time reserve was studied either with or without oxygen. The suggestion for this in part came obviously from other work, such as that of Dr. Kliches.

I sometimes observed these experiments. He performed them correctly; he watched the subjects so that there was, in itself, no objection to these experiments. The only thing was that they interfered with our experiments from the point of view of time, and Rascher's lack of punctuality was a much greater annoyance in this respect. According to the documents, as well as the witness Neff, Rascher apparently had deaths in these experiments. The first deaths were evidently unexpected. In these unexpected deaths the electrocardiogram and the

autopsy findings, together with his reports, apparently gave Himmler the idea that these experiments should be carried on further, and in addition that Fahrenkamp should be called in to extend them as far as possible scientifically. The fact that Himmler was covering them apparently induced him in my presence to perform experiments which were dangerous, and in which deaths occurred. The fact that I had been present several times at previous experiments brought about my presence at that fatal experiment, too.

Q. Did you not think it unusual that during an experimental series which you and Rascher were to carry out together, Himmler suddenly gave Rascher orders for special experiments?

A. Yes. I did not have any specific experience in this direction, but on principle it is nothing unusual if when two people are working together on a certain job, one of them receives an additional assignment from his chief to carry out other work on his own. In addition, Rascher was also working in Schongau at the same time on behalf of Luftgau VII. I, myself, had work of my own in the DVL, which my associates were carrying on and which I inquired about when I happened to be in Berlin. No one could dispute the fact that Himmler, as Reich Leader SS and Chief of the German Police and as Rascher's boss insofar as he was an SS member, had the right to give assignments to his subordinates and to order them to carry out experiments on experimental subjects in a concentration camp.

* * * * * * *

Q. Now, in your opinion, what is the distinction between your presence at the experiments on rescue from high altitudes and your occasional presence during Rascher's experiments?

A. In the experiments on rescue from high altitudes I was not merely present. I performed the experiments myself. That is, I called the experimental subjects myself, or sometimes Rascher called them. Of course, then I explained to the people what they had to do, what they had to write, what they had to pay special attention to, and that when they registered the electrocardiogram, in order not to interfere with it, they had to keep still; and then when the experiment had started I directed the experiment myself. I watched the altitude of the mercury indicator, and the calculated speed of ascension and descension, which I checked with the stop watch. Of course, at the same time I observed the subject, in other words, the persons in the experiments. In Rascher's experiments which were at a certain altitude—that is, the subjects were ascended to a certain altitude and then remained at that altitude—I sometimes watched if I happened to be in the low-pressure chamber, but otherwise he performed these experiments alone just as he did when I was not present. He even laid great stress on performing them alone. It is clear to me now that he did not want me to observe any special results; that is apparently

why he performed the other experiments in the evening or when I was away.

Q. After the first death was there an autopsy?

A. Yes, there was an autopsy.

Q. Did you participate in it?

A. No, I did not participate. I was present and I watched the autopsy.

Q. Why did you watch the autopsy if it was not your experiment?

A. Today, of course, it looks different than it did at the time. It was a matter of course for me then. Rascher was a colleague of mine. He had had a fatal accident in his experiments. He asked me to watch the autopsy, and, of course, I went. I also had a quite natural scientific interest in the cause of death, and in the findings, and I admit it frankly, although I am aware of the danger that someone may say I was interested in the death of the person too, but it happens in every hospital; all doctors watch the autopsies. If, for example, in the surgical ward, a patient died after an operation, then the chief physician, or if he had no time, the senior physician, and the other doctors who had nothing specifically to do with the patient, watched the autopsy, and generally even X-ray doctors came over who didn't know the patient at all. Besides if I had not been present, that would today be considered as an incomprehensible lack of interest in the death—if I had not accepted Rascher's invitation. If such a death happened during a centrifugal experiment in our institute, if such an accident had happened which was not in my field of work, I certainly would have gone to watch the autopsy. One must learn from the findings; that is one's duty as a doctor. One has to look at such things so that one can draw one's own conclusions and be able to avoid subsequent accidents.

Q. Did you see any further autopsies of Rascher?

A. No.

Q. Why not?

A. After this death there was a basic change in my attitude toward Rascher and the plan to break off the experiments, so that in the case of later deaths I was not present because of this attitude. I do not believe he invited me to the autopsies either, and under the conditions in Dachau I could not go there on my own initiative.

Q. Did you ask Rascher how this death came about, or did you warn him before the death?

A. Yes, I have already said I was present at the experiments just as I had sometimes been present at the other series of his experiments, purely out of curiosity, just as in our institute if centrifugal experiments were performed, I sometimes watched them, too. There was no reason for distrust but at that time I just watched the experiments out of curiosity. That was how it happened that I was present by accident

at the experiment and looked at the electrocardiogram of this subject. On the screen of the electrocardiograph one can see a little point of light which moves, and that is determined by the heart action. When it seemed to me that it was getting dangerous, that the heart action was lessening, I said to Rascher: "You had better stop now."

Q. And what did Rascher do?

A. Nothing. He kept that altitude and later death suddenly occurred.

Q. When you observed the electrocardiogram was it quite clear to you that the person would die in the next second?

A. No, of course not. First of all I had never seen a death from high altitude. That was the first one I ever saw. I couldn't know that, and, in the second place, this death certainly resulted from aeroembolism and, therefore, suddenly. In the third place, the electrocardiogram change was, shall we say, doubtful. I myself would have stopped the experiment at this stage but he didn't. I only spoke up because I would have stopped the experiment at that moment.

Q. Did you speak to Rascher about this after the experiment?

A. It was not possible for me to object in view of Rascher's position, but I told him that such things should not happen.

Q. And what else did you do?

A. After this death I went to Berlin and told Ruff about it. Ruff agreed with me that death should not be allowed to occur in high-altitude experiments and it had never occurred before. Since Rascher, however, performed these experiments for Himmler on men who were condemned to death, we saw no way of preventing Rascher after we had made an official report. In general when objections were made Rascher simply referred to the orders from Himmler and to the fact that he was covered by them. It was quite impossible to remove the chamber from Dachau against Himmler's and Rascher's will. And to give this death as a reason for removing the chamber was even more impossible. In the first place, Himmler would not have reacted. He would certainly not have given up the chamber. He might have started proceedings for treason or for sabotage of an essential war experiment. In fact, I had reported this to Ruff against my signature to the contrary in a concentration camp. Like every other visitor to a concentration camp I had to sign a statement to the effect that everything I saw and so forth in the camp would be secret. Besides, at the beginning of the experiments Rascher had received a special telegram from Himmler ordering silence about these experiments. A specific obligation to secrecy was strengthened by this order from Himmler. Since I had reported the matter to Ruff against the secrecy obligation, I also had to be covered in this respect, and for this reason again we could not give the death as the reason for removing the chamber from Dachau, aside from the fact it would not have met with success.

Therefore, after some consideration we decided that the only possibility was for Ruff to go to Milch or Hippke and ask to have the chamber removed, giving the excuse that it was needed at the front. On the other hand, I was to conclude our experiments quickly so that Himmler could be told that the experiments were finished and that we could prove this so that we could claim the right to remove the chamber from Dachau. Otherwise Himmler would doubtless have ordered the experiments to be continued until the original goal had been reached, that is, the clarification of the question of rescue from high altitudes, and he would doubtless have gone to Goering or even Hitler and arranged to keep the chamber longer. He would have said that the use of this chamber at the front was unimportant compared to its use at Dachau in the experiments, and he would not have released the chamber.

If I myself had not gone back to Dachau, then Rascher would have carried out the experiments on rescue from high altitudes alone; and he would doubtless also have continued his own experiments. That was the reason why I reluctantly went back to Dachau.

Q. Now, what was the purpose of your trip to Berlin?

A. The purpose was this report to Ruff.

Q. Was that the only purpose?

A. Yes.

Q. How did you explain this trip to Rascher?

A. I told Rascher that I was going because of my wife's condition. My wife had had a child in March, and that was a good reason for my going to Berlin.

Q. How long were you in Berlin?

A. Only 1 or 2 days; then I went back to Dachau.

Q. Now, before you left did you make sure whether Ruff had done anything in response to your report, whether he had done anything to get the chamber out of Dachau?

A. Yes. Ruff tried to get Hippke but was not able to at that time, so that I really did not know what was going on and what would be accomplished.

Q. Did you notice anything special about the chamber when you came back to Dachau?

A. Yes. When I came back, the barometer was broken, as Neff has already said; and I had to go right back to Berlin to have the barometer repaired.

Q. How long did you stay in Berlin this time?

A. As long as the repair required; about 2 weeks.

Q. Then during this time there were no experiments?

A. No.

Q. When did the experiments begin again?

A. The beginning of May or the middle of May I went back with the repaired apparatus; then we concluded the experiments as quickly as possible.

Q. Did you abbreviate the program which you had planned, or did you change it in any way, or did you keep it the way it was?

A. No. We shortened it. We had fewer experiments at the various altitudes in order to conclude the whole thing as quickly as possible but in such a way that it was actually completed with adequate results.

Q. When was the second death at which you were present?

A. That was a few days after my return to Dachau.

Q. Did the death of the experimental subject occur in a manner similar to the first case?

A. In general, yes. I don't know exactly what happened. As far as I recall, it was an experiment at a rather high altitude, and death occurred quicker, more suddenly.

Q. And when was the third death at which you were present?

A. That was right after that, on the next day, or the second day.

Q. After these deaths, did you ever have any arguments with Rascher about his experiments and the way in which he performed them?

A. Yes, we had some minor arguments resulting from my objections, which he always refused to accept; but after the third death when I started to object again, he said first that Himmler had ordered it and I wasn't to interfere. When I later brought the subject up once more, he lost his patience, and we got rather excited. I asked him why he was carrying out these experiments; what he wanted to achieve. He said he wanted to clarify the problem of caisson diseases, that is bends or aero-embolism, because Himmler had ordered it. He was the first man to prove these air bubbles in the blood during an autopsy under water. Also the question of the electrocardiogram in bends and altitude sickness had to be clarified as Himmler had given him a special assignment for it, and Fahrenkamp was to do this work together with him. In addition he wanted to qualify as a professor with Schittenhelm through this work.

Then he brought out a letter and read to me that the experiments were to be continued; that Professor Fahrenkamp was to be called in; and that people condemned to death who survived the experiments would, of course, be pardoned. Then he held the letter out to me and asked me whether I could read Himmler's signature and whether I wasn't satisfied with that.

Q. Was this the letter 1971–B–PS, Prosecution Exhibit 51?

A. Yes, 1971–B–PS, as Prosecution Exhibit 51.

Q. And what does this letter indicate?

A. Well, it showed that Himmler had actually ordered these experiments and that he, therefore, had complete official coverage, that the subjects were to be pardoned. It says in the letter: "Of course the person condemned to death shall be pardoned to concentration camp for life." Then it says that Fahrenkamp is to be consulted. On the next page it says that this order from Himmler goes to the Chief of the Security Police and the SD and to SS Brigadefuehrer Gluecks, with a copy for their information.

Q. Did Rascher give you any further explanation of this letter?

A. Since this letter prevented me from doing anything, I calmly asked him what idea he had of these experiments, what he wanted to do, what he wanted to achieve. He said that Dr. Fahrenkamp would help him and that he would have electrocardiograms for heart failure from the most various reasons and would compare them with electrocardiograms in the case of death at high altitudes with the change in severe altitude sickness and with later recovery. In addition, in the hospital in Munich he had taken electrocardiograms in cases of heart failure. In Dachau, he said, he had also registered electrocardiograms when there were executions by shooting. If he really had evaluated all this material together with a heart specialist, then it would, of course, have been quite valuable.

* * * * * * *

Q. Now, did you do anything, and what did you do in order to stop Rascher's experiments and did you incur any danger and, if so, what?

A. What I did against Himmler's orders and against my signed promise to keep secrecy, the fact that I reported the incidents to my boss who passed the information on—all this was dangerous. One probably understands enough about conditions under Himmler to realize that. The witness Neff has described my attitude to Rascher's experiments. He confirmed that I intervened in one case when he was present. Perhaps he knows nothing about my other objections. In general, the discussions between Rascher and myself did not take place in the presence of the prisoners. The low-pressure chamber was removed from Dachau earlier than intended at our instigation. Against Rascher's and Himmler's wishes, it was never returned to Dachau. The extent of the accusations made by the SS in this direction is shown by the document. These efforts begin with Wolff's telegram to Milch on 12 May, which is answered in the negative in Milch's letter of 20 May. (*343–A–PS, Pros. Ex. 62.*) In answer to further efforts from Himmler, Milch ordered that the chamber was to remain 2 months longer in Dachau. (*NO–261, Pros. Ex. 63.*) At this time, we had already removed the chamber. On 5 June, Rascher again writes to Himmler about the low-pressure chamber. Document NO–284, Prosecution Exhibit 64, is the answer to this letter of

5 June. The letter itself is, unfortunately, not available. This letter, no doubt, says that the chamber was removed from Dachau in May, while the prosecution alleges that the experiments continued until August. Then there is a certain pause in Rascher's and Himmler's efforts, because Rascher is busy with the cold experiments. When the film is shown in Berlin in the Air Ministry, Rascher does not forget to tell Milch again of his wishes in regard to the low-pressure chamber. But hardly has the first phase of the cold experiments—the series with Holzloehner—been finished, when he writes to Himmler again on 9 October. (*1610–PS, Pros. Ex. 73.*) He asks Himmler to get him the low-pressure chamber so that he can continue his experiments and qualify as a professor. In the letter of 21 October 1942 (*NO–226, Pros. Ex. 75*), Sievers writes to Brandt about the continuation of the high-altitude experiments which Himmler wants, but knowing of the existing difficulties, or for other reasons, he adds that Himmler will no doubt have to write to Milch personally in order actually to get the chamber. This happens on 27 November 1942 (*NO–269, Pros. Ex. 78*)—a letter from Wolff to Milch, on behalf of Himmler. The definite request for the low-pressure chamber, which is expressed in this letter, is given definite emphasis by mention of the opposition of the Luftwaffe doctors. I learned from a telephone call from Sievers, which he mentioned in his testimony, that he was to buy a low-pressure chamber for Rascher on behalf of Himmler. I was greatly astonished at this telephone call at the time, because I knew very well that Rascher certainly didn't want to have this made public in any way. Now, this telephone call has been cleared up. Then I informed Ruff of this call and he had Becker-Freyseng take further steps, as he said here yesterday. In an official letter to various SS agencies, dated 13 December 1942 (*1612–PS, Pros. Ex. 79*), Rascher is given the assignment by Himmler personally to carry out high-altitude experiments. On 14 March 1943 (*NO–270, Pros. Ex. 110*), Rascher tells of his discussions with Hippke and again says that he wants to carry out low-pressure chamber experiments, together with me; and finally, on 18 November 1943 (*NO–1057, Pros. Ex. 463*), he tries again, through the Reich Research Council in agreement with Himmler, to get a mobile low-pressure chamber in order to carry out experiments. Those are Rascher's and Himmler's efforts but, nevertheless, Rascher never again had a low-pressure chamber at his disposal for experiments.

Q. Well, what do you want to prove by these statements?

A. This no doubt proves clearly how great Rascher's and Himmler's efforts were and that my conduct under these circumstances was not only not cowardly, but that it was much more clever and much more successful. Even if I had had any legal obligations to prevent him by force, if I had had any obligations to attack Rascher and if I had

tried and been unsuccessful, then I would have been locked up or killed and Rascher would have been able to continue his experiments for a long time without any restriction.

Q. At that time, was there any possibility in Germany to resist, and in what did you see such possibility?

A. There were only three types of resistance possible. First of all, emigration for a person who was able; second, open resistance which meant a concentration camp or the death penalty, and to my knowledge, never met with any success; third, passive resistance by apparent yielding, misplacing and delaying orders, criticism among one's friends, in short, what writers today call "internal emigration." But that really doesn't have much to do with the question. As far as the direct question of prevention is concerned, I would like to say something more. To take a comparison from the medical field, it is unknown to me and I cannot imagine, for example, that an assistant of a scientific research worker who is performing infections with a fatal disease, for example, leprosy, on a prisoner, that this assistant should prevent the scientist from carrying out this infection by force—perhaps by knocking the hypodermic syringe out of his hand and crying "You mustn't do that, the man might die!" I could imagine that some assistant might, for personal reasons, refuse to participate in such experiments, but I cannot imagine that if there were a trial against this doctor the prosecution would demand that the assistant should have prevented the scientist in this manner.

Q. Then, you are convinced that prevention by force was impossible?

A. Yes.

Q. But could you not have filed charges, for example, with the police or with the public prosecutor, against Rascher?

A. Yes, of course, I could have, but if I had gone there and said, "Rascher has performed experiments ordered by Himmler—by the Chief of the German Police and whatever else he was—the Reich Leader SS, the State Secretary in the Ministry of the Interior," they would probably have said: "Well, we can't do anything about it. If he has orders, then we can't do anything about it."

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2. FREEZING EXPERIMENTS

a. Introduction

The defendants Karl Brandt, Handloser, Schroeder, Gebhardt, Rudolf Brandt, Mrugowsky, Poppendick, Sievers, Becker-Freyseng, and Weltz were charged with special responsibility for and participation in criminal conduct involving freezing experiments (par. 6 (B) of the indictment). On this charge the defendants Handloser, Schroeder, Rudolf Brandt, and Sievers were convicted. The defend-

ants Karl Brandt, Gebhardt, Mrugowsky, Poppendick, Becker-Freyseng, and Weltz were acquitted.

The prosecution's summation of the evidence on the freezing experiments is contained in its final brief against the defendant Sievers. An extract from this brief is set forth below on pages 199 to 206. A corresponding summation of the evidence by the defense on these experiments has been selected from the closing briefs for the defendants Sievers and Weltz. It appears below on pages 207 to 217. This argumentation is followed by selections from the evidence on pages 219 to 278.

b. Selection from the Argumentation of the Prosecution

EXTRACT FROM THE CLOSING BRIEF AGAINST DEFENDANT SIEVERS

Freezing Experiments

Before the high-altitude experiments had actually been completed, the freezing experiments were ordered to be performed by the defendant Weltz and his subordinate Rascher. This can be seen from a letter of 20 May 1942 from Milch to Karl Wolff. (*343–A–PS, Pros. Ex. 62.*) A short time later, Rascher had a conference with Hippke and the experimental team was changed to include Jarisch, Holzloehner, and Singer. Rascher reported these orders to Himmler on 15 June 1942, and passed on Hippke's request to have the experiments conducted in Dachau. He stated: "It was also decided that the inspector [Hippke] would issue orders to me at all times during the experiments." (*NO–283, Pros. Ex. 82.*) The research assignment was issued by the Department for Aviation Medicine (2 II B) under Anthony, with the defendant Becker-Freyseng as his deputy. (*NO–286, Pros. Ex. 88.*)

The cold-water freezing experiments began on 15 August 1942 and continued until the early part of 1943. They were performed by Holzloehner, Finke, and Rascher, all of whom were officers in the Medical Service of the Luftwaffe. Holzloehner and Finke collaborated with Rascher until December 1942. As Rascher said in a paper on his medical training: "By order of the Reich Leader SS and Generaloberstabsarzt Professor Dr. Hippke, I conducted 'Experiments for the Rescue of Frozen Persons' (started on 15 August 1942), in cooperation—for 4 months—with the Professor Dr. Holzloehner and Dr. Finke both of Kiel University." (*NO–230, Pros. Ex. 115.*) Rascher also said that: "Since May 1939 till today I have been in military service with the Air Force." The memorandum was dated 17 May 1943. It should therefore be borne in mind that during all of the high-altitude and substantially all of the freezing experiments, Rascher was on *active duty* with the Luftwaffe, not the SS. It was

not until after May 1943 that he went on active duty with the Waffen SS. He was of course supported by both the Luftwaffe and the SS in these experiments.

The witness Neff, who was an inmate assistant in the experiments, testified that freezing experiments in the concentration camp Dachau started at the end of July or in August 1942. They were conducted by Rascher, Holzloehner, and Finke. In October, Holzloehner and Finke left and Rascher proceeded alone to conduct freezing experiments until May 1943. Rascher, Holzloehner, and Finke used ice-cold water for their freezing experiments. The experimental basin had been built 2 meters long and 2 meters high in Rascher's experimental station, Block 5. (*Tr. pp. 626–8.*) The experiments were carried out in the following manner: The basin was filled with water and ice was added until the water measured 3° C. The experimental subjects, either dressed in a flying suit or naked, were placed into the ice water. Narcotics were frequently not used. It always took a certain time until so-called "freezing narcosis" made the experimental subjects unconscious, and the subjects suffered terribly. The temperature of the victims was measured rectally and through the stomach by galvanometer. They lost consciousness at a body temperature of approximately 33° C. The experiments actually progressed until the experimental persons were chilled down to 25° C. body temperature. An experiment on two Russian officers who were exposed naked to the ice-cold water in the basin was particularly brutal. These two Russians were still conscious after 2 hours. Rascher refused to administer an injection. When one of the inmates who attended the experiment tried to administer an anaesthetic to these two victims, Rascher threatened him with a pistol. Both experimental subjects died after having been exposed at least 5 hours to the terrible cold. (*Tr. pp. 629–631.*) Approximately 280 to 300 experimental subjects were used for this type of freezing experiment, but in reality, 360 to 400 experiments were conducted since many experimental subjects were used two or three times for experiments. Approximately 80 to 90 experimental subjects died. About 50 to 60 inmates were used in the Holzloehner-Finke-Rascher experiments and approximately 15 to 18 of them died. Political prisoners, non-German nationals, and prisoners of war were used for these experiments. Many of the inmates used had not been "condemned to death." The subjects did not volunteer for the experiments. (*Tr. pp. 627–8.*)

Even though one assumes that prisoners condemned to death were used in all of the experiments, which is not true, the "defense" that they volunteered on the agreement that their sentences would be commuted to life imprisonment is invalid. During the high-altitude experiments, Himmler had directed that in further experiments where the long continued heart activity of subjects who were killed was

observed, criminals condemned to death should be used and, if they were revived, they should be "pardoned" to concentration camp for life. (*1971–B–PS, Pros. Ex. 51.*) Rascher apparently construed this order to apply to the freezing experiments also. On 20 October 1942, Rascher advised Rudolf Brandt that until then only Poles and Russians had been used for such experiments and that only some of these persons had been condemned to death. He inquired whether Himmler's "amnesty" applied to Russians and Poles. (*1971–D–PS, Pros. Ex. 52.*) Brandt told him that it did not apply. (*1971–E–PS, Pros. Ex. 53.*)

Dry-freezing experiments were carried out by Rascher in January, February, and March 1943. One experimental subject was placed on a stretcher at night and exposed to the cold outdoors. He was covered with a linen sheet, but a bucket of cold water was poured over him every hour. He remained outdoors until the morning and then his temperature was taken with a thermometer. In the next series the experimental plan was changed, and experimental persons had to remain naked outdoors for long hours without being covered up at all. One series was carried out on 10 prisoners who had to remain outdoors overnight. Rascher himself was present during approximately 18 to 20 experiments of that type. Approximately three experimental subjects died as a result of the dry-freezing experiments. (*Tr. pp. 636–7.*)

On the order of Grawitz and Rascher, a mass experiment on 100 experimental subjects was to be carried out. As Rascher was not present, Neff was in the position to frustrate the experiment by taking the experimental subjects indoors, and therefore no deaths occurred during this experimental series. The longest period that experimental subjects were kept outdoors in the cold was from 6 p. m. of one day to 9 a. m. of the following morning. The lowest temperature Neff can recollect during the dry-freezing experiments was 25° body temperature. As Rascher had prohibited that experiments were to be carried out under anaesthetics, the experimental subjects suffered great pain and screamed to such an extent that it was impossible to carry out further experiments. Rascher therefore requested Himmler's permission to carry out such experiments in the future in the Auschwitz concentration camp. Non-German nationals and political prisoners were among the experimental subjects. None of them was sentenced to death. They had not volunteered for the experiments. (*Tr. pp. 637–9.*)

In connection with the freezing experiments, Neff further testified that in September 1942 he received orders from Sievers to take the hearts and lungs of five experimental subjects who had been killed in the experiments to Professor Hirt in Strasbourg for further scientific study. The travel warrant for Neff had been made out by Sie-

vers, and the Ahnenerbe Society paid the expenses for the transfer of the bodies. One of the five experimental subjects killed had been a Dutch citizen. (*Tr. p. 633.*) Sievers visited the experimental station quite frequently during the freezing experiments. (*Tr. p. 635.*)

Neff's testimony is corroborated by the affidavits of the defendants Rudolf Brandt and Becker-Freyseng (*NO–242, Pros. Ex. 80; NO–448, Pros. Ex. 81*) and the testimony of the witness Lutz (*Tr. pp. 266–76*), Vieweg (*Tr. p. 431*), and Michalowsky (*Tr. pp. 878–83*), and by the documentary evidence in the record.

On 15 June 1942, Rascher informed Himmler that the Inspector of the Medical Service of the Luftwaffe, Hippke, sought permission for cold experiments to be conducted by Rascher and Holzloehner in the Dachau concentration camp. (*NO–283, Pros. Ex. 82.*) On 10 September 1942, Rascher submitted his first intermediary report on the freezing experiments to Himmler. In the covering letter Rascher stated that Holzloehner, who participated in the execution of the experiments on behalf of the Luftwaffe, intended to lecture on the subject of freezing in the "cold conference" of the Luftwaffe on 26–27 October in Nuernberg. Rascher informed Himmler that "Sievers, who surveyed the experiments in Dachau last week, believed that if any report was to be made at a meeting, I should be called upon to submit the report." (*NO–234, Pros. Ex. 83.*) The intermediary report itself shows on its face that fatalities occurred as a result of the Rascher-Holzloehner-Finke experiments and advocated rapid rewarming of severely chilled persons. Rascher considered that rewarming with animal heat would be too slow, and that experiments in this respect would be unnecessary. He voiced a similar opinion as to the use of drugs for the purpose of rewarming. (*1618–PS, Pros. Ex. 84.*) Himmler, when acknowledging the receipt of Rascher's report on 22 September, directed nevertheless that the experiment with rewarming by means of drugs and body heat should be made. A copy of this order of Himmler's was forwarded to Sievers on 25 September. (*1611–PS, Pros. Ex. 85.*)

On the basis of this order Rascher approached Sievers to make arrangements for four female gypsies to be procured at once for the purpose of rewarming experimental subjects. (*NO–285, Pros. Ex. 86.*) It was apparently Sievers' effort in this regard which resulted in a series of telegrams to transfer these women from the Ravensbrueck concentration camp to Dachau. Rudolf Brandt actually directed the transfer. (*1619–PS, Pros. Ex. 87.*) The four women arrived in November 1942 in Dachau. Three of them were used for rewarming of frozen experimental subjects, one being excluded because she was a "Nordic" type. That the experimental subjects were not volunteers is plain from a remark of one of these women. "Rather half a year in

the brothel than half a year in the concentration camp." (*NO–323, Pros. Ex. 94.*) This series of experiments, which was not only murderous but obscene, was carried out by Rascher between November 1942 and February 1943. His report to Himmler reveals that one of the experimental subjects died as a result of this series of experiments. (*1616–PS, Pros. Ex. 105.*)

On 8 October 1942, Stabsarzt Professor Anthony of the Medical Inspectorate of the Luftwaffe approached Himmler with the information that the results of the wet-freezing experiments carried out by Rascher in cooperation with Holzloehner and Finke were to be lectured upon by Holzloehner during the "cold conference" on 26–27 October in Nuernberg. (*NO–286, Pros. Ex. 88, compare NO–234, Pros. Ex. 83.*) On 16 October Rascher also asked Himmler's permission to release the results of the freezing experiments during these "cold conferences." (*NO–225, Pros. Ex. 89.*) On the same day Rascher submitted to Himmler his final report on the freezing experiments as far as they had been carried out in collaboration with Holzloehner and Finke. This report did not include experiments for rewarming by means of drugs and of animal body heat, which at that time were still in progress. (*1613–PS, Pros. Ex. 90.*)

This report on "Cooling Experiments on Human Beings" by Holzloehner, Rascher, and Finke, corroborates fully the testimony of Neff concerning this series of the wet-freezing experiments and proves that many fatalities occurred. It shows that some of the experimental subjects were exposed to this terrible type of experimentation without receiving anesthetics, which would have alleviated their pain considerably. The sufferings of the experimental subjects were vividly described. Foam appeared round the mouths of the experimental subjects, and breathing difficulties and lung oedema resulted. The cooling of the neck and back of the head of the experimental subjects caused especially painful sensations. Progressive rigor, which developed very strongly in the arm muscles, cyanosis, and total irregularity of the heart activity were the symptoms observed by the experimenters. Hot baths were advocated as the best treatment for severely chilled persons. Fatalities resulted from heart failure and brain oedema, and measures for protection against such results were discussed at great length. (*NO–428, Pros. Ex. 91.*)

Sievers denied that Rascher reported to him on the freezing experiments but admitted that he received occasionally Rascher's reports from Himmler. (*Tr. pp. 5684–5.*) But by the testimony of the witness Neff it is not only proved that Rascher submitted to the Ahnenerbe monthly, quarterly, and semi-annual reports, describing in detail the nature and status of his experimental research (*Tr. p. 635*), but also that the final report of Rascher, Holzloehner, and Finke (*NO–1428, Pros. Ex. 91*) was forwarded to him. (*Tr. p. 681.*)

On 24 October Himmler acknowledged the receipt of this report which he had read "with great interest" and charged Sievers with arrangements for "the possibility of evaluation at institutes which are connected with us." (*1609–PS, Pros. Ex. 92.*)

On 26 and 27 October 1942, the conference on "Medical Problems Arising from Distress at Sea and Winter Hardships," sponsored by the Inspector of the Medical Service of the Luftwaffe, Hippke, under the chairmanship of Anthony and with the assistance of Becker-Freyseng, took place in Nuernberg. At this conference Holzloehner delivered his lecture on the freezing experiments under the title "Prophylaxis and Treatment of Freezing in Water." The very detailed clinical observations described by him excluded the possibility that only observations on human beings *who were rescued* had been made, and made it clear that experiments on human beings had been conducted. (*NO–401, Pros. Ex. 93.*) Moreover, Rascher made a statement following Holzloehner's lecture, which clearly revealed that the experiments had been carried out on concentration camp inmates. This report caused a sensation among the officials present at the lecture. It was made clear that deaths had occurred. (*Tr. p. 272.*) Sievers has denied having received a report on this conference (*Tr. p. 5689*), but the entry of 12 January in his diary for the year 1943 shows that he discussed with Rascher the "procurement of memoranda on the conference concerning the effects of cold in Nuernberg." (*NO–538, Pros. Ex. 122.*)

On 6 November 1942, Rascher forwarded a memorandum to Himmler's personal staff, the office of the defendant Rudolf Brandt, regarding cooperation with Dr. Craemer of the Medical Research Station for Mountain Medical Troops at St. Johann. This was a school subordinated to Handloser as Army Medical Inspector. In this memorandum Rascher advocated dry-freezing experiments on concentration camp inmates in the mountain region of Bayrischzell. The purpose was to investigate whether injuries of the extremities due to freezing would have a better prognosis on persons accustomed to cold than on persons unaccustomed to it. Rascher said that Craemer had heard the report in Nuernberg and was very enthusiastic about the experiments. He requested to see some in progress. (*NO–319, Pros. Ex. 96; 1579–PS, Pros. Ex. 97.*) Himmler gave his permission for this type of dry-freezing experiment in an order dated 13 December 1942, in which he lists Rascher's assignment for the execution of high-altitude and three different types of freezing experiments. Copies of this order were submitted to various SS agencies and to the Ahnenerbe Society. (*1612–PS, Pros. Ex. 79.*) Himmler's letter contained the following directive:

"5. The procurement of the apparatus needed for all the experiments should be discussed in detail with the offices of the Reichsarzt

SS, of the Main Office for Economic Administration, and with the Ahnenerbe. * * *"

The evidence proves that prior to 21 October 1943, Rascher received an assignment from Blome of the Reich Research Council to conduct open-air freezing experiments. (*NO–432, Pros. Ex. 119.*) Sievers aided Rascher in the matter of obtaining the location and personnel for these experiments. (*3546–PS, Pros. Ex. 123.*)

On 13 January 1943, Rascher had a conference with Grawitz and the defendant Poppendick concerning the freezing experiments. In this conference Rascher's freezing experiments were discussed in detail. He stressed the point that he was working with the Ahnenerbe and that he reported to the Ahnenerbe. The documentary note of Rascher's on this conference shows on its face that wet-freezing experiments had been conducted by him and that Grawitz requested him to carry out further freezing experiments with dry cold until he would "have a few hundred cases." This documentary note was forwarded by Sievers to the defendant Rudolf Brandt on 28 January. (*NO–320, Pros. Ex. 103.*) In his covering letter Sievers requested Brandt's opinion as to what attitude he and Rascher were to take in respect of their position to Grawitz, with the implied request that Brandt should strengthen his position with Grawitz, who considered it "an unbearable situation to have a non-physician give information on medical matters." What Sievers wanted to achieve was an intervention of Brandt with Himmler on his behalf and, therefore, he stressed his personal importance by saying:

"My duty merely consists in smoothing the way for the research men and seeing that the tasks ordered by the Reich Leader SS are carried out in the quickest possible way. On one thing I certainly can form an opinion—that is, on who is doing the quickest job.

"If things are to go on in the future as SS Gruppenfuehrer Grawitz desires, I am afraid that Dr. Rascher's work will not continue to advance as fast and unhampered as hitherto." (*NO–320, Pros. Ex. 103.*)

On 17 February, Rascher forwarded his report on the results of the experiment in which animal warmth was used for the rewarming of severely chilled persons. (*1616–PS, Pros. Ex. 105.*) In his accompanying letter to Himmler, he informed him that he was conducting dry-cold experiments in Dachau. Thirty experimental subjects had been experimented upon and had been exposed to cold out of doors from 9–14 hours, thereby reducing their body temperature to 27°–29° C. The extremities of the experimental subjects were frozen white. Rascher suggested a large series of experiments in the Auschwitz concentration camp. This place would be suitable for such experimentation because it was colder there, and the spacious open country within the camp "would make the experiments less con-

spicuous, as the experimental subjects *yell* when they freeze severely." [Emphasis supplied.] (*1616-PS*, *Pros. Ex. 105.*) Himmler gave Rascher permission to carry out additional freezing experiments in the concentration camps Auschwitz and Lublin. (*1615-PS*, *Pros. Ex. 109.*)

Rascher's letter to the defendant Rudolf Brandt, dated 4 April 1943, reveals that another series of dry-freezing experiments had been carried out on inmates of the Dachau concentration camp during a period of heavy frost weather. Some of the experimental subjects were exposed to cold of −6° C. in the open air for 14 hours and had reached an internal temperature of 25° C. (*NO-292*, *Pros. Ex. 111.*) The three fatalities which, according to Neff's testimony, resulted from the dry-freezing experiments, apparently occurred during this series of experiments. (*Tr. pp. 637-8.*)

On 11 April 1943, Rascher submitted to Himmler a brief report concerning "freezing experiments on human beings exposed to the open air." (*NO-240*, *Pros. Ex. 112.*) The report itself is not available, but the letter of the defendant Rudolf Brandt of 16 April to Rascher proves that the defendant Gebhardt received it from Himmler for study. (*NO-241*, *Pros. Ex. 113.*) A conference between Rascher and the defendant Gebhardt took place in Hohenlychen on 14 May in the presence of the defendant Fischer. Gebhardt discussed with Rascher the freezing experiments and other experimentation carried out in the Dachau concentration camp and invited Rascher to collaborate with him. Rascher feared to lose his independence and turned to Sievers to settle this affair in a tactful way as Gebhardt was a very close friend of Himmler, and Rascher, therefore, feared his eventual enmity. (*NO-231*, *Pros. Ex. 116.*) Sievers, in turn, approached Brandt in this matter on 22 May and requested information whether Himmler had given any definite directive to Gebhardt in regard to Rascher's sphere of action and work. He further asked Brandt's intervention on behalf of Rascher by saying:

> "I entrust you with this affair and ask you particularly to use it only for your strict personal information so that Dr. Rascher does not encounter any difficulties with SS Gruppenfuehrer Professor Dr. Gebhardt." (*NO-267*, *Pros. Ex. 117.*)

When Rascher visited Gebhardt in Hohenlychen, the latter encouraged him to embark upon a career of university lecturer. (*NO-231*, *Pros. Ex. 116.*) Rascher followed this suggestion and Sievers supported him wholeheartedly and collaborated with the defendants Brandt and Blome to have Rascher appointed university lecturer. (*NO-229*, *Pros. Ex. 118; NO-290*, *Pros. Ex. 121.*) That Rascher's thesis for habilitation was based on the freezing and high-altitude experiments is proved by Rascher's memorandum on his medical training which he wrote for the purpose of his habilitation (*NO-230*, *Pros. Ex. 115*) and other evidence in the record. (*NO-240*, *Pros. Ex. 112.*)

c. Selections from the Argumentation of the Defense

EXTRACTS FROM THE CLOSING BRIEF FOR DEFENDANT SIEVERS

The Freezing Experiments

Freezing experiments on human beings were carried out in Dachau concentration camp from the end of 1942 on.

It cannot be denied that a ruthless carrying-out of these experiments was liable to inflict torture and death upon the persons experimented on. Here, too, it seems necessary to distinguish between two groups of experiments. One group comprises the experiments carried out by Professor Holzloehner, Dr. Rascher, and Dr. Finke, and the other one, those carried out by Rascher alone. The first group of experiments easily permits the assumption that the possible effects of the experiments on the persons subjected to them were taken into consideration. After all that has become known about Rascher by now, the assumption is justified that, during the experiments carried out by Rascher alone, considerations of the effect on life and health of the persons used were not of primary importance. The only exceptions were probably the experiments Rascher carried out in the presence of third persons who were not involved.

On the occasion of administrative conferences he had to attend in Dachau, Sievers met Professor Holzloehner, Dr. Finke, and Rascher who had just finished a freezing experiment. The person experimented on was placed under an arc of light [Lichtbogen]. That is all Sievers saw of this experiment. (*German Tr. p. 5684.*)

Then Sievers watched a second freezing experiment. Himmler had instructed Professor Hirt of Strasbourg to have a look at Rascher's work on freezing, since he (Himmler) obviously had come to the conclusion that Rascher alone was not sufficient for the clarification of these scientifically extensive and difficult questions. For this experiment a professional criminal was introduced whom a regular court had sentenced to death for robbery and murder. Sievers and Dr. Hirt made sure about this by examining the files of the criminal police department of the Dachau concentration camp. Dr. Hirt then asked the person to be experimented on whether he realized that the experiment might prove fatal to him. The person to be experimented on answered in the affirmative.

By personally questioning the person to be experimented on, Sievers then made sure that he agreed to the experiment. The person in question answered in the affirmative and added: "If it does not hurt." This assurance could be given since the experiment was carried out under full narcosis. Sievers did not take part in the entire experiment, but he saw that it was carried out under full narcosis. (*German Tr. pp. 5685–86.*)

The witness Dr. Punzengruber, at that time an inmate of the Dachau concentration camp and from 1942–1943 assigned to Dr. Rascher's station as a chemist, confirms that the person used had been condemned to death.

The same witness confirms that Sievers was not present during other freezing experiments. Dr. Punzengruber could establish this because his laboratory was located next to the room where Dr. Rascher carried out his experiments. (*Affidavit of Dr. Punzengruber, 14 March 1947.*)

A further presence of Sievers at freezing experiments has not occurred and has not been claimed from any side.

In order to prove Sievers' participation in the freezing experiments, the prosecution pointed out the following documents:

Rascher's letter of 10 September 1942 to Himmler. "SS Obersturmbannfuehrer Sievers, who observed the experiments in Dachau last week, is of the opinion that if during a convention there would be a report at all, I, too, would have to be called in for reporting." (*NO–234, Pros. Ex. 83.*)

Himmler's letter of 22 September 1942 to Rascher in which the former instructs Rascher to carry out experiments in quick increase of body temperature and increase of body temperature through medicaments and animal heat [medikamentanimalische Erwaermung]. Sievers received a copy of this letter for information on 25 September 1942. (*1611–PS, Pros. Ex. 85.*)

Rascher's letter of 3 October 1942 to Dr. R. Brandt which contains the information that he (Rascher) had asked Sievers to transmit at once a teletype communication to the camp commander stating that four female gypsies from another camp must be procured immediately; that furthermore he had asked Sievers to take steps to have the low-pressure chamber put at his disposal; he finally mentioned that he informed Sievers about the failure of the planned report to Field Marshal Milch. (*NO–285, Pros. Ex. 86.*)

Sievers' note of 6 November 1942 concerning Rascher's transfer to the SS. (*NO–288, Pros. Ex. 95.*)

Letter, dated 12 January 1943, from the Reich Chief Manager [Reichsgeschaeftsfuehrer] of Ahnenerbe to SS Obergruppenfuehrer Wolff, concerning Rascher's transfer to the Waffen SS. (*NO–236, Pros. Ex. 101.*)

Letter, dated 28 January 1943, from the Reichsgeschaeftsfuehrer of Ahnenerbe to the personal staff of the Reich Leader SS concerning the taking of Dr. Rascher's work under the protection of Ahnenerbe in pursuance of Dr. Rascher's conversation on 13 January 1943 with the Chief Reich Physician [Reichsarzt] of the SS, Dr. Grawitz. (*NO–320, Pros. Ex. 103.*)

Note, dated 4 February 1943, of the Reichsgeschaeftsfuehrer of Ahnenerbe concerning Dr. Rascher's report to the medical inspection [Sanitaetsinspekteur] of the Luftwaffe on his activities since he was declared unassigned [zur Disposition]. Furthermore Rascher should go to SS Obersturmbannfuehrer Professor Dr. Pfannenstiel on 7 February 1943. (*NO–238, Pros. Ex. 104.*)

Letter, dated 17 May 1943, from Dr. Rascher to the Reichsgeschaeftsfuehrer of Ahnenerbe concerning Rascher's statement on his report to SS Gruppenfuehrer Professor Dr. Gebhardt on 14 May 1943. (*NO–231, Pros. Ex. 116.*)

Letter, dated 22 May 1943, from the Reichsgeschaeftsfuehrer of Ahnenerbe to Dr. R. Brandt concerning Rascher's statement on his report to SS Gruppenfuehrer Professor Dr. Gebhardt. (*NO–267, Pros. Ex. 117.*)

Letter, dated 27 September 1943, from the Reichsgeschaeftsfuehrer of Ahnenerbe to Dr. Brandt concerning Dr. Rascher's establishment as a college professor (Habilitation). (*NO–229, Pros. Ex. 118.*)

Letter, dated 21 March 1944, from the Reichsgeschaeftsfuehrer of Ahnenerbe to Dr. R. Brandt concerning the establishment of Dr. Rascher as a college professor. (*NO–290, Pros. Ex. 121.*)

The prosecution furthermore refers to the testimony given on 17 and 18 December 1946 by witness Neff. Neff testified that Sievers frequently was at the experimental station; that during experiments he was present several times; that, however, he could not remember whether Sievers had been present during experiments which ended fatally.

The prosecution furthermore accuses Sievers of having procured female concentration camp inmates to be used in the rewarming experiments [Wiedererwaermungsversuche]. In this connection the following was submitted:

Letter, dated 3 October 1942, from Dr. Rascher to Dr. Brandt: "* * * Today I asked Obersturmbannfuehrer Sievers to pass on immediately a teletype communication to the camp commander in which is stated that four female gypsies must be procured from another camp at once." (*NO–285, Pros. Ex. 86.*)

Telephone call [Fernspruch] of 7 October 1942 from camp commander Weiss to Dr. Brandt, concerning the putting at the disposal of staff physician [Stabsarzt] Dr. Rascher "of the four women for experimental purposes as ordered by the Reich Leader SS". (*1619–PS, Pros. Ex. 87.*)

Teletype communication, dated 8 October 1942, to SS Brigadefuehrer Gluecks, concerning the departure from their original station of "the four women ordered by the Reich Leader SS".

Dr. Rascher's report of 5 November 1942 on concentration camp prostitutes [KL-Dirnen]. Refusal, on account of her Nordic racial characteristics, to use one of those women, and corresponding report to the camp commander and to the adjutant of the Reich Leader SS. (*NO–323, Pros. Ex. 94.*)

Witness Neff estimates that 10 women from the Ravensbrueck concentration camp were put at disposal for experiments with body heat [animalische Waerme]. (*German Tr. p. 632.*)

The following is to be said to the prosecution's accusation that Sievers played an important part in procuring female concentration camp inmates to be used for the rewarming of persons used in experiments:

Nowhere, except in the letter, dated 3 October 1942, from Dr. Rascher to Dr. Brandt does there exist any indication that such an assumption might be justified. But this letter only states that Dr. Rascher had asked Obersturmbannfuehrer Sievers immediately to pass on to the camp commander a teletype communication reporting that four female gypsies must be procured from another camp at once. (*NO–285, Pros. Ex. 86.*)

The fact that the order to carry out experiments concerning the increase of temperature through medicaments and body heat [medikamentanimalische Erwaermung] was given by Himmler is proved beyond doubt by 1611–PS, Prosecution Exhibit 85.

Furthermore, I point to the interrogation of Dr. Romberg. (*German Tr. pp. 6864–65.*)

Sievers claims not to have done anything in this connection since the orders originated with Himmler himself. Consequently there was nothing caused by his own initiative. (*German Tr. pp. 5685–86.*)

At that time Rascher was at Dachau concentration camp most of the time, while Sievers came there very rarely. Therefore it was much easier for Rascher than for Sievers to inform the camp commander of his wishes.

Rascher refused to use one of the four women for experiments in rewarming through body heat because this woman possessed beyond doubt the characteristics of the Nordic race. Rascher reported this to the camp commander and to the adjutant of the Reich Leader SS. (*NO–323, Pros. Ex. 94.*) In this connection, too, Sievers did not play any part.

The prosecution furthermore accuses Sievers of taking part in Dr. Rascher's dry-freezing experiments [Trockenkaelteversuche].

Sievers is not mentioned in the following documents submitted in this connection: NO–319, Pros. Ex. 96; 1579–PS, Pros. Ex. 97; NO–431, Pros. Ex. 99; 1580–PS, Pros. Ex. 107; 1615–PS, Pros. Ex. 109; NO–292, Pros. Ex. 111; NO–240, Pros. Ex. 112; NO–241, Pros. Ex. 113; NO–432, Pros. Ex. 119.

These letters are neither addressed to him nor signed by him. Neither have copies of them reached him nor have they passed through his hands.

The letter, dated 12 January 1943, from the Reichsgeschaeftsfuehrer of Ahnenerbe to SS Obergruppenfuehrer Wolff, contains the following passage: "Since the freezing experiments depend on the season, valuable time is lost as long as Dr. Rascher is not available." (*NO–236, Pros. Ex. 101.*)

The witness Neff did not testify that Sievers knew of the dry-freezing experiments [Trockenkaelteversuche].

Sievers knew through Himmler's order of 13 December 1942, that Rascher was supposed to carry out dry-freezing experiments. (*1612–PS, Pros. Ex. 79.*) Only during this trial did Sievers come to know that Rascher carried out such experiments in Dachau. Himmler had ordered these experiments to be carried out on the terrain of Berghaus Sudelfeld. They were planned for the winter of 1943-44. Sievers faked inquiries as a result of which the terrain at Sudelfeld was supposed to be unsuited and by this he succeeded in not having the dry-freezing experiments carried out during the winter of 1943–44. The experiments, which Himmler then ordered for the winter of 1944–45, did not take place because Rascher was arrested in the spring of 1944. (*German Tr. pp. 5689–90.*)

Since the dry-freezing experiments in the mountains, ordered by Himmler, did not take place at all, Sievers can rightfully claim to have helped to prevent them.

The freezing experiments which, beginning at the end of August 1942, were carried out in Dachau concentration camp, originated from a scientific research order the medical inspector [Inspekteur des Sanitaetswesens] of the Luftwaffe had given Stabsarzt Professor Dr. Holzloehner on 24 February 1942. At Stabsarzt Dr. Rascher's suggestion, corresponding experiments were carried out on human beings. For this research work an experimental group "Seenot" ("Hardships at sea"), consisting of Professor Dr. Holzloehner as chief, and Stabsarzt Dr. Rascher and Dr. Finke, was organized. (*NO–286, Pros. Ex. 88; NO–268, Pros. Ex. 106; NO–230, Pros. Ex. 115.*) The freezing experiments were carried out in agreement with the Reich Leader SS. (*NO–286, Pros. Ex. 88.*) In his letter, dated 19 February 1943, the medical inspector of the Luftwaffe thanks the Reich Leader SS for the great help which the cooperation with the SS afforded in carrying out the research work. (*NO–268, Pros. Ex. 106.*) On 6 March 1943 the medical inspector of the Luftwaffe confirmed in a letter to Obergruppenfuehrer Wolff that he had at once agreed to freezing experiments on human beings. (*NO–262, Pros. Ex. 108.*)

The prosecution argues that Sievers gave special support to Rascher as a person and thus he revealed that he also wanted to support

Rascher's experiments. Therefore reason exists for comment on Rascher's personality and Sievers' attitude toward him.

Dr. Rascher was staff physician (Stabsarzt [Captain, M. C.]) of the Luftwaffe reserve and at the same time a member of the general SS, holding the rank of an SS Hauptsturmfuehrer. In a well-planned scheme he always put this last mentioned position and his direct connection with Himmler in the foreground. Orally or in writing he submitted all his wishes to Himmler; to him directly did he send the reports on his work. He referred to Himmler whenever he wanted to assert himself and his work before other official agencies such as, for example, the Luftwaffe. He appealed to Himmler when the chief physician of the SS [Reichsarzt SS] Dr. Grawitz, and Professor Dr. Gebhardt, did not give him the recognition and the support he believed were due him. Through Himmler he tried to effect his establishment as a university lecturer. (*NO–283, Pros. Ex. 82; NO–234, Pros. Ex. 83; NO–320, Pros. Ex. 103; 1616–PS, Pros. Ex. 105; 1580–PS, Pros. Ex. 107; NO–270, Pros. Ex. 110; NO–240, Pros. Ex. 112.*)

There can be no doubt that on account of his protection by Himmler he showed an autocratic mind toward his surroundings and also toward his military superiors, brutality toward his inferiors, and disgusting servility toward his protector, Himmler. (*German Tr. p. 674.*)

In the Dachau concentration camp he was able to move without restrictions and without control by accompanying guards. This was impossible for occasional visitors like Sievers. (*German Tr. p. 5672; German Tr. p. 5320; German Tr. pp. 6542–43; German Tr. p. 8620; German Tr. pp. 8697 and 8887–88; Beiglboeck 31, Beiglboeck Ex. 12.*)

Holding the rank of a commanding general, the medical inspector of the Luftwaffe deemed it advisable to assure SS Obergruppenfuehrer Wolff in his letter of 6 March 1943 that he "would discuss the entire problem in *old comradeship* with Rascher personally." (*NO–262, Pros. Ex. 108.*)

A commanding general deemed it advisable to adopt this attitude, contrary to all military customs, toward a staff physician because by this conciliatory attitude, inconceivable under other circumstances, he wanted to avoid a controversy with the latter on account of the latter's connections with Himmler.

What Rascher thought of Medical Inspector Dr. Hippke's attitude is revealed in the letter of 14 March 1943 to Dr. Rudolf Brandt in which he states:

> "I would like to point out the extraordinary amiability of the inspector and his carefulness in all remarks relating to the SS." (*NO–270, Pros. Ex. 110.*)

To make sure that Himmler would under all circumstances be informed about Rascher's conference with Medical Inspector Hippke, he continues:

"May I respectfully ask to inform, wherever that seems necessary to you, the Reich Leader SS of my report." (*NO–270, Pros. Ex. 110.*)

The statement that Witness Dr. Punzengruber made about Rascher is very characteristic:

"His (Rascher's) connections were so strong that practically every important superior trembled in fear of the intriguing Rascher, who consequently held a position of enormous power." (*Sievers 44, Sievers Ex. 45.*)

Rascher's servility toward Himmler is already revealed by the bombastic phrases with which he closes his letters to Himmler. To give a few examples only:

Letter dated 17 February 1943, from Rascher to Himmler: "With most obedient regards I remain in honest gratitude with Heil Hitler your very devoted S. Rascher." (*1616–PS, Pros. Ex. 105.*)

Letter, dated 11 April 1943, from Rascher to Himmler: "With most obedient regards and Heil Hitler I remain always, devoted to you in gratitude, your S. Rascher." (*NO–240, Pros. Ex. 112.*)

Letter, dated 10 September 1942, from Rascher to Himmler: "In grateful admiration with Heil Hitler your very devoted S. Rascher." (*NO–234, Pros. Ex. 83.*)

The picture of Rascher is completed by the testimony that personally he went to the highest authorities only. (*German Tr. p. 7966.*)

Sievers is also brought into connection with Dr. Rascher's attempt to establish himself as a university lecturer.

In his "educational history" ["Ausbildungsverlauf"] Rascher mentions that the Reich Leader SS (Himmler) ordered him to establish himself as a university lecturer with one of his two papers: "Attempts at Rescue from High Altitude" ["Versuche zur Rettung aus grossen Hoehen"] and "Attempts at the Saving of Frozen Humans" ["Versuche zur Rettung ausgekuehlter Menschen"]. (*NO–230, Pros. Ex. 115.*)

By a letter, dated 12 August 1943, from Dr. Rudolf Brandt of the personal staff of the Reich Leader SS, Sievers is entrusted with this affair. This letter is not at our disposal. On 27 September 1943, that is after more than 6 weeks, Sievers answers that he introduced Rascher to Professor Dr. Blome and SS Brigadefuehrer Mentzel. The former had talked to Professor Dr. Pfannenstiel of Marburg. On 21 March 1944, that is almost 6 months after the letter just mentioned, Sievers reports to Dr. Brandt on the further development of the case of Dr. Rascher's establishment as a university lecturer. The attempt in Marburg had failed and consequently they would have to try to establish Rascher as a lecturer at Strasbourg University. (*NO–290, Pros. Ex. 121.*)

Rascher's arrest freed Sievers from the necessity of taking any further action. The fact that Sievers was involved, as far as the establishment as a university lecturer is concerned, not only in Rascher's case, is revealed, for example, by Sievers' 1943 diary, entry of 9 February 1943 concerning the establishment as a lecturer of Dr. Schuetrumpf (*NO–538, Pros. Ex. 122*); furthermore, entry of 22 February 1943 concerning the establishment as a lecturer of Dr. Rudolph; furthermore, Sievers' 1944 diary, entry of 22 February 1944, concerning the establishment as a lecturer of Dr. Schmidt-Rohr. (*3546–PS, Pros. Ex. 123.*)

If, in case of Rascher's establishment as a lecturer, Sievers was acting only as in other similar cases of members of Ahnenerbe, then this was one of his tasks as Reich manager [Reichsgeschaeftsfuehrer] of Ahnenerbe and he cannot be charged with special activity on Rascher's behalf.

* * * * * * *

There is no indication that Sievers had known, before the experiments started, that they could become immoderate or inhuman. Neither as far as planning nor as far as the direction was concerned nor in any other way had Sievers anything to do with the carrying out of the experiments.

Furthermore the question must be answered whether Sievers did not gain knowledge through Rascher's reports, which he received while the experiments were carried out, of the criminal character of Rascher's experiments.

The prosecution submitted the following reports of Dr. Rascher: Final report, dated 10 October 1942, of Professor Dr. Holzloehner, Dr. Finke, Dr. Rascher (*NO–428, Pros. Ex. 91.*) Interim report, dated 15 August 1942, of Dr. Rascher. (*1618–PS, Pros. Ex. 84.*) Report, dated 17 February 1943, of Dr. Rascher. (*1616–PS, Pros. Ex. 105.*) These reports were sent by Rascher directly to Himmler as can be ascertained from the documents themselves or from the accompanying letters. None of the documents indicates that a copy of the reports went to the Ahnenerbe or that they came to Sievers' knowledge in some other way. Sievers denies that he obtained knowledge of these reports.

Sievers did not take part in the conference of 26–27 October 1942, as can be clearly seen from the list of those present. (*NO–401, Pros. Ex. 93.*) Sievers, also, never received a written report on the conference. Also the secretary of many years' standing of the Ahnenerbe, the witness, Dr. Gisela Schmitz, has stated that she never saw reports about experiments of Rascher. Since all the incoming mail was delivered first to her she would necessarily have seen any such reports. (*Sievers 45, Sievers Ex. 46.*) Even if Sievers—as he did not—should have obtained knowledge of one or another of the reports, he

cannot be expected to have formed an independent opinion on the permissibility of human experiments from the point of view of medical professional ethics.

Sievers had neither the power nor the opportunity to interfere with the sub-chilling experiments, or to prevent them or bring them to a stop. It must be pointed out again and again that Sievers was competent only for administrative affairs.

Everything that Sievers could do for the prevention of the experiments was done. In the cases of the experiments at Dachau, Sievers' influence was nil. On the other hand he was able to prevent some experimental activity on Rascher's part by procrastinating the dry-cold experiments [Trockenkaelteversuche] which should have been carried out in the mountains.

* * * * * * *

EXTRACT FROM THE CLOSING BRIEF FOR DEFENDANT WELTZ

Document 343–A–PS, Prosecution Exhibit 62, is the only document submitted in this connection [freezing experiments] and mentioning the name of Professor Weltz. It is a letter by Field Marshal Milch, dated 20 May 1942, to SS Obergruppenfuehrer Wolff, Chief of the Personal Staff, Reich Leader SS. In this letter Field Marshal Milch says that the high-altitude experiments were completed and that there was no real reason for their continuation. The letter continues: "The carrying out of experiments concerning the problem of distress at sea, on the other hand, is important; they were prepared in direct agreement with the authorities. Oberstabsarzt Weltz is instructed to carry them through and Stabsarzt Rascher is also made available for them until further notice."

Obviously, the prosecution intends to take this letter as basis for the assertion that Professor Weltz participated in the planning and the carrying out of the experiments. At the session of 8 May 1947, (*Tr. p. 7237*) the prosecutor referred to this letter and drew the conclusion therefrom that Field Marshal Milch, pursuant to the information he had obtained from Professor Hippke on 20 May, thought that Rascher still belonged to the office of Weltz in Munich and that Professor Weltz was entrusted with the carrying out of the freezing experiments for this reason. If and to what extent Field Marshal Milch was informed about the actual events may be left undecided. It is merely established that Professor Hippke already knew at that time that Stabsarzt Rascher no longer belonged to the office of Weltz. This appears with certainty from NO–296, Prosecution Exhibit 58, which is the letter of the Medical Inspector of the Luftwaffe of 27 April 1942 to the Chief of the Personal Staff of the Reich Leader SS,

from the reply to Wolff's application to Hippke of 16 April 1942, in which Wolff asks for the extension of Stabsarzt Rascher's assignment to the DVL (German Research Institute for Aviation), Dachau Branch. There is, therefore, no doubt that on 20 May 1942, Hippke knew that at that time Rascher no longer belonged to Weltz' office. How it happened that the name of Professor Weltz was mentioned in this document was established by Professor Hippke's testimony as witness in the trial against Erhard Milch. (*Weltz 3*, *Weltz Ex. 7.*) Professor Hippke testified in this connection that in a discussion at the beginning of June 1942 he was informed by Rascher that the latter had received orders from the Reich Leader SS (Himmler) to carry out freezing experiments. A report on this conference is contained in NO–283, Prosecution Exhibit 82. Supplementing this report, Rascher's report on his conference with Professor Hippke, Hippke himself testified that he was thinking of Profesor Weltz because he knew that Professor Weltz—in his institute in Munich—had been working on problems of freezing with animal experiments. Later, he had abandoned this plan to ask Professor Weltz to cooperate in the carrying out of these experiments because he had become convinced that the theoretical work was not the point but the practical experience on freezing problems and that not Professor Weltz but Professor Holzloehner had the greater practical experience.

However, it has been established that Professor Weltz never received such an order and also that he was not otherwise concerned in any way with the carrying out of the freezing experiments. This is proved by the testimony of the defendant Weltz in his own case, (*Tr. 7108–09*), and by the affidavit of Professor Weltz' co-worker Dr. Wendt. (*Weltz 23*, *Weltz Ex. 21.*)

For the rest, Weltz' name does not appear in any connection in any of the numerous documents relating to the problem of freezing experiments submitted by the prosecution. On the contrary, these documents show clearly who from the Luftwaffe was actually ordered to carry out these experiments and who carried them out in Dachau.

The fact that Professor Weltz was not even requested to participate in the planning of the freezing experiments, appears clearly from Document NO–283, Prosecution Exhibit 82, already discussed, and above all without objection.

* * * * * * *

That Professor Weltz refused to participate in the experiments after he learned about them was firmly established on the other hand by the evidence submitted by the defense which in turn is supported by the documents submitted by the prosecution. Document 1610–PS, Prosecution Exhibit 73, submitted by the prosecution appears to have special weight as evidence in this connection. It is Rascher's letter to Himmler of 9 October 1942. In this letter Rascher asks Himmler

to see to it that the apparatus necessary for chemical analysis be put at his disposal by laboratories not working to full capacity. He points to the fact that the Weltz Institute does not make apparatus available to him, as it was allegedly used there for freezing experiments with shaved cats, and the institute needed these apparatus for its own use. Moreover, the affidavit of the witness Dr. v. Werz (*Weltz 4*, *Weltz Ex. 11*) according to which Professor Weltz refused to furnish apparatus for freezing experiments at Dachau, further proves this disapproval on the part of Professor Weltz of the freezing experiments carried out at Dachau. Moreover, it appears also from NO–3674, Prosecution Exhibit 549. Here, an attempt is made to procure the apparatus (colorimeter) which was not delivered by Weltz from somewhere else. From 1609–PS, Prosecution Exhibit 92, it becomes apparent to what danger Professor Weltz exposed himself by his attitude against Rascher. It is a letter of the Reich Leader SS of 24 October 1942 to Rascher. In it Himmler acknowledges the receipt of Rascher's letter, dated 9 October 1942, (*1610–PS*, *Pros. Ex. 73*) mentioned above in which Rascher complains about Professor Weltz' attitude. In reply to this complaint Himmler writes:

> "People who today still disapprove of human experiments and would rather have German soldiers die of the consequences of freezing I consider to be guilty of treason and high treason, and I shall have no compunction to report the names of these gentlemen to the authorities concerned. You are authorized by me to inform the offices concerned of this of my opinion."

From Sievers' testimony in direct interrogation it appears, unequivocally, that this referred to Professor Weltz. In this regard Sievers declared the following: "I can only say this in respect to Weltz himself, for Herr Rascher, as I already stated in reply to your question, mentioned in this connection Weltz as a participant."

The defendant Sievers also declared that in view of Rascher's character, as known to him, it could be expected that Rascher would make use of the powers given him with respect to "those guilty of treason and high treason," among others also against Professor Weltz.

In the course of the cross-examination of Weltz the prosecution intimated in a veiled manner that Professor Weltz might have moved objects and files or might have put apparatus at the disposal of the Dachau experiments.

Since the prosecution could not submit evidence of any weight in this respect it is unnecessary to go into this. In the cross-examination itself it became apparent that all the files and apparatus were in existence at the end of the war and that Weltz himself had made suggestions to hand over his institute in an orderly manner to the Americans. (*Tr. pp. 7241–7242.*)

* * * * * * *

d. Evidence

Prosecution Documents

Doc. No.	Pros. Ex. No.	Description of Document	Page
NO–234	83	Letter from Rascher to Himmler, 10 September 1942, transmitting intermediate report on freezing experiments (1618–PS).	219
1618–PS	84	Intermediate report, 10 September 1942, on intense chilling experiments in Dachau concentration camp.	220
1611–PS	85	Letter from Himmler to Rascher and Sievers, 22 September 1942, ordering rewarming in freezing experiments through physical warmth.	221
NO–285	86	Letter from Rascher to Rudolf Brandt, 3 October 1942, stating that Sievers would obtain four gypsy women for rewarming through body warmth.	221
1619–PS	87	Teletype from commandant of Dachau concentration camp to Rudolf Brandt, 7 October 1942, stating that four women would be available from Ravensbrueck concentration camp for Rascher's experiments.	223
NO–286	88	Letter from Goering's office to Himmler, 8 October 1942, with attached invitation to the conference on "Medical Problems Arising from Hardships of Sea and Winter."	223
1613–PS	90	Letter from Rascher to Himmler, 16 October 1942, transmitting report on cooling experiments on human beings (NO–428).	225
NO–428	91	Report of 10 October 1942, on cooling experiments on human beings.	226
1609–PS	92	Letter from Himmler to Rascher, 24 October 1942, and note by Rudolf Brandt.	244
NO–323	94	Memorandum of Rascher on women used for rewarming in freezing experiments, 5 November 1942.	245
NO–320	103	Letter from Sievers to Brandt, 28 January 1943, and Rascher's report on his discussions with Grawitz and Poppendick.	246
1616–PS	105	Letter from Rascher to Himmler, 17 February 1943, and summary of experiments for rewarming of chilled human beings by animal warmth, 12 February 1943.	249
NO–268	106	Letter from Hippke to Himmler, 19 February 1943, on freezing experiments in Dachau.	252
1580–PS	107	Letter from Himmler to Rascher, 26 February 1943, on freezing experiments in the concentration camps Auschwitz and Lublin.	253
NO–292	111	Letter from Rascher to Rudolf Brandt, 4 April 1943, reporting on dry-freezing experiments in Dachau.	253
NO–322	114	Letter from Rascher to Keindl, 28 April 1943, about previous freezing experiments conducted at Sachsenhausen.	254
NO–231	116	Letter from Rascher to Sievers, 17 May 1943, concerning a conference with Gebhardt on freezing experiments.	255

Prosecution Documents—Continued

Doc. No.	Pros. Ex. No.	Description of Document	Page
NO–432	119	Letter from Rascher to Neff, 21 October 1943, concerning dry-freezing experiments.	258
NO–690	120	List of research projects from the files of the Reich Research Council.	259

Testimony

Extracts from the testimony of Tribunal witness Walter Neff 260
Extract from the testimony of defendant Handloser 265
Extract from the testimony of defendant Schroeder 269
Extracts from the testimony of defendant Sievers 274

TRANSLATION OF DOCUMENT NO–234 PROSECUTION EXHIBIT 83

LETTER FROM RASCHER TO HIMMLER, 10 SEPTEMBER 1942, TRANSMITTING INTERMEDIATE REPORT ON FREEZING EXPERIMENTS (1618–PS)

Dr. med. Sigmund Rascher — Munich, Trogerstr. 56
at present Berlin, 10 Sep 1942

My dear Reich Leader,

May I submit in the enclosure the first intermediary report about the freezing experiments?

In the beginning of October, a meeting on the subject of freezing experiments is to take place. Professor Dr. Holzloehner, participating in our Dachau experiments on behalf of the Luftwaffe, wants to give on this occasion an account of the results of our experiments. SS Obersturmbannfuehrer Sievers, who surveyed the experiments in Dachau last week, believes that if any report was to be made at a meeting, I should be called upon to submit the report. A discussion with other experts on freezing experiments would surely be very valuable. I therefore request your decision.

1. Can a report be made elsewhere before the oral report has been submitted to you, my Reich Leader?

2. Is my participation in the conference on the subject of the freezing experiments of the Luftwaffe ordered by you, my Reich Leader?

I will take care that the report is submitted in the manner appropriate for top secret matter.

Yours gratefully and respectfully
Heil Hitler!
[Signed] Yours very devotedly, S. RASCHER

1 enclosure

INTERMEDIATE REPORT, 10 SEPTEMBER 1942, ON INTENSE CHILLING EXPERIMENTS IN DACHAU CONCENTRATION CAMP

S. Rascher

Intermediate report on intense chilling experiments in the Dachau Camp, started on 15 August 1942

Experimental procedure

The experimental subjects (VP) were placed in the water, dressed in complete flying uniform, winter or summer combination, and with an aviator's helmet. A life jacket made of rubber or kapok was to prevent submerging. The experiments were carried out at water temperatures varying from 2.5° to 12°. In one experimental series, the occiput (brain stem) protruded above the water, while in another series of experiments the occiput (brain stem) and back of the head were submerged in water.

Electrical measurements gave low temperature readings of 26.4° in the stomach and 26.5° in the rectum. Fatalities occurred only when the brain stem and the back of the head were also chilled. Autopsies of such fatal cases always revealed large amounts of free blood, up to one-half liter, in the cranial cavity. The heart invariably showed extreme dilation of the right chamber. As soon as the temperature in these experiments reached 28°, the experimental subjects died invariably, despite all attempts at resuscitation. The above discussed autopsy finding conclusively proved the importance of a warming protective device for head and occiput when designing the planned protective clothing of the foam type.

Other important findings, common in all experiments, should be mentioned, marked increase of the viscosity of the blood, marked increase of hemoglobin, an approximate five-fold increase of the leukocytes, invariable rise of blood sugar to twice its normal value. Auricular fibrillation made its appearance regularly at 30°.

During attempts to save severely chilled persons [Unterkuehlte], it was shown that rapid rewarming was in all cases preferable to slow rewarming, because after removal from the cold water, the body temperature continued to sink rapidly. I think that for this reason we can dispense with the attempt to save intensely chilled subjects by means of animal heat.

Rewarming by animal warmth—animal bodies or women's bodies—would be too slow. As auxiliary measures for the prevention of intense chilling, improvements in the clothing of aviators come alone into consideration. The foam suit with suitable neck protector which is being prepared by the German Institute for the Textile Research,

Munich-Gladbach, deserves first priority in this connection. The experiments have shown that pharmaceutical measures are probably unnecessary if the flier is still alive at the time of rescue.

[Signed] Dr. S. Rascher

Munich—Dachau, 10 September 1942.

TRANSLATION OF DOCUMENT 1611–PS
PROSECUTION EXHIBIT 85

LETTER FROM HIMMLER TO RASCHER AND SIEVERS, 22 SEPTEMBER 1942, ORDERING REWARMING IN FREEZING EXPERIMENTS THROUGH PHYSICAL WARMTH

Secret

Reich Leader SS
Rf/Dr. AR/19/30/42

Personal Headquarters
Reich Leader SS
22 September 1942

1. Dr. Rascher
Munich—Dachau

I have received the intermediate report on the chilling experiments in Camp Dachau.

Despite everything, I would so arrange the experiments that all possibilities, prompt warming, medicine, body warming, will be executed in positive experiment orders.

[Signed] H. Himmler

2. SS—Lt. Col. Sievers
Berlin
A carbon copy with the request for acknowledgment.

SS Lt. Col.
25 Sep 42

PARTIAL TRANSLATION OF DOCUMENT NO–285
PROSECUTION EXHIBIT 86

LETTER FROM RASCHER TO RUDOLF BRANDT, 3 OCTOBER 1942, STATING THAT SIEVERS WOULD OBTAIN FOUR GYPSY WOMEN FOR REWARMING THROUGH BODY WARMTH

Dr. med. Sigmund Rascher Munich, Trogerstr. 56, 3 October 42

Most honored Obersturmbannfuehrer!

First of all I want to thank you very much for "Das glaeserne Meer" ("The Glass Ocean"). My wife and myself are very happy to possess now a complete set of these books. I have already read the book with great interest.

The Reich Leader SS wants to be informed of the state of the experiments. I can announce that the experiments have been concluded, with the exception of those on warming with body heat. The final report will be ready in about 5 days. Professor Holzloehner, for reasons that I cannot fathom, does not himself want to make the report to the Reich Leader Himmler and has asked me to attend to it. This report must be made before 20 October, because the great Luftwaffe conference on freezing takes place in Nuernberg on 25 October. The report on the results of our research *must* be made there, to assure that they be used in time for the troops. May I ask you to arrange for a decision from the Reich Leader regarding the final report to him, and the submission to him of the relevant material?

Today I received your letter of 22 September 1942, in which the Reich Leader orders that the experiments on warming through body heat must absolutely be conducted. Because of incomplete address it was delayed. Today I asked Obersturmbannfuehrer Sievers to send a telegram to the camp commander immediately, to the effect that four gypsy women be procured at once from another camp. Moreover, I asked SS Obersturmbannfuehrer Sievers to take steps to have the low-pressure chamber made ready for use.

The report to Field Marshal Milch planned for 11 September could not be made, as you have discovered, because he was prevented from attending, and no representative was commissioned to receive it. As the Reich Leader had not empowered me to report to anyone in the Reich Air Ministry (RLM), I abstained from making the report, which rather nettled the gentlemen of the Medical Inspectorate [Sanitaetsinspektion]. I immediately informed Obersturmbannfuehrer Sievers. For the time being the report is being held as a military secret at the German Aviation Research Institute (DVL) together with a distribution list prepared by the Reich Air Ministry. The distribution of the copies, however, has not yet taken place, because, as I said, the report has not yet been made to Milch. I assume that you were informed of this whole business long ago. What shall we do now?

I wish to enclose a letter of thanks to the Reich Leader from the former prisoner Neff. At the same time I should like to thank you very much for your efforts; and let me beg you, should opportunity offer, to convey to the Reich Leader my most sincere thanks for his granting of this request. I did not write to the Reich Leader in person, in order not to make any further demands on his valuable time.

With best wishes and

Heil Hitler!
Yours most sincerely
[Signed] S. Rascher.

PARTIAL TRANSLATION OF DOCUMENT 1619–PS
PROSECUTION EXHIBIT 87

TELETYPE FROM COMMANDANT OF DACHAU CONCENTRATION CAMP TO RUDOLF BRANDT, 7 OCTOBER 1942, STATING THAT FOUR WOMEN WOULD BE AVAILABLE FROM RAVENSBRUECK CONCENTRATION CAMP FOR RASCHER'S EXPERIMENTS

Reich Security Main Office (RSHA) Message Center

* * * * * * *

CONCENTRATION CAMP DACHAU 9793 7 OCTOBER 1942
1630–FR–

TO SS OBERSTURMBANNFUEHRER DR. BRANDT BERLIN PRINZ ALBRECHT STR. 8. THE HEADQUARTERS CONCENTRATION CAMP DACHAU REQUESTS CHIEF OF THE AMTSGRUPPE SS BRIGADEFUEHRER GLUECKS TO HAVE THE FOUR WOMEN ORDERED BY THE REICH LEADER SS FOR STABSARZT DR. RASCHER FOR THE PURPOSE OF EXPERIMENTS SENT IMMEDIATELY FROM RAVENSBRUECK TO DACHAU.

SIGNED WEISS, SS STURMBANNFUEHRER AND COMMANDANT OF THE CAMP.

PARTIAL TRANSLATION OF DOCUMENT NO–286
PROSECUTION EXHIBIT 88

LETTER FROM GOERING'S OFFICE TO HIMMLER, 8 OCTOBER 1942, WITH ATTACHED INVITATION TO THE CONFERENCE ON "MEDICAL PROBLEMS ARISING FROM HARDSHIPS OF SEA AND WINTER"

The Reich Air Minister
and Commander in chief
of the Luftwaffe
Az: 55 No. 5 340/secret/42 (L. I. 14, 2IIB)

Berlin W 8, 8 October 1942
Leipziger Strasse 7

By Messenger!

Subject: Research order on Freezing [Abkuehlung].

Reference: 1. D. R. d. L. and Ob. d. L. Ch. d. Lw. L. In. 14 Az: 55 No. 20058/41 (2II B) dated: 24/2/42
2. D. R. d. L. and Ob. d. L. Ch. d. Lw. L. In. 14 Az: 21 o–r No. 10909/42 (1 II A) dated: 6/8/42

To the Reich Leader SS

The Inspectorate of the Medical Service of the Luftwaffe has given an order for research to the Stabsarzt Professor Dr. Holzloehner, ref-

erence above, dated 24 February 1942, for work on the following problem:

"The effect of freezing on warm-blooded subjects."

At the proposal of Stabsarzt Dr. Rascher appropriate examinations were made of human beings, and in agreement with the Reich Leader SS suitable SS facilities were used for the examinations.

In order to carry out these examinations a research group "Hardships at Sea" ("Seenot") was set up, consisting of Professor Dr. Holzloehner as leader and Stabsarzt Dr. Rascher and Dr. Finke.

The leader of this research group reported that the examinations have been concluded.

It is intended to dissolve the research group at the latest by 15 October 1942.

The research documents and an extensive report will be presented to the Reich Leader SS by Stabsarzt Dr. Rascher. It is requested that the originals or copies of the report and of the documents be put at the disposal of the Inspectorate of the Medical Service of the Luftwaffe.

It is intended to make the results, in the form of an extract, accessible to experts at a conference which will take place in Nuernberg on 26 and 27 October 1942. The agenda schedule of the conference is closed.

The SS Central Office, Medical Department [SS Hauptamt, Sanitaetsamt] has been invited to this discussion by letter, dated 30 September 1942.

It is further requested to abstain from forwarding the documents and the report to other nonmedical offices.

Draft signed [Im Entwurf gez.]

By order

WULLEN

True Copy

[Signature] ANTHONY

1 enclosure

[Enclosure]

The Inspector of the Medical Service of the Luftwaffe

Conference on "Medical Problems Arising from Hardships of Sea and Winter" on 26 and 27 October 1942 in Nuernberg, Hotel "Der Deutsche Hof," 29–35 Frauentorgraben. Chairman of the conference: Stabsarzt Professor Dr. Anthony, L. In. 14.

Tentative schedule:

26 October 1942.

* * * * * * *

15.35 o'clock—Oberstabsarzt Dr. Weltz:
"Warming Up after Freezing to the Danger Point".

15.55 o'clock—Stabsarzt Professor Holzloehner:
"Prevention and Treatment of Freezing."

16.40 o'clock—Discussion.

TRANSLATION OF DOCUMENT 1613–PS
PROSECUTION EXHIBIT 90

LETTER FROM RASCHER TO HIMMLER, 16 OCTOBER 1942, TRANSMITTING REPORT ON COOLING EXPERIMENTS ON HUMAN BEINGS (NO–428)

Dr. Sigmund Rascher

Munich 16 October 42
Troger Str. 56

Highly esteemed Reich Leader!

Permit me to submit the attached final report on the super-cooling experiments performed at Dachau. This report does not contain the course and results of a series of experiments with drugs as well as experiments with animal body heat [animalische Waerme] which are now being conducted. Likewise this report does not contain the microscopic pathological examinations of the brain tissues of the deceased. I was surprised at the extraordinary microscopic findings in this field. I will carry out experiments before the start of the conference in which the effect of cooling will be discussed and I hope to be able to present further results by that time. My two coworkers left Dachau about 8 days ago.

In the hope that you, highly esteemed Reich Leader, will be able to spare a quarter of an hour to listen to an oral report, I remain, with the most obedient regards and

Heil Hitler!
Yours respectfully.
[Signed] S. Rascher.

PARTIAL TRANSLATION OF DOCUMENT NO–428
PROSECUTION EXHIBIT 91

REPORT OF 10 OCTOBER 1942, ON COOLING EXPERIMENTS ON HUMAN BEINGS

Stabsarzt Prof. Dr. E. Holzloehner
Stabsarzt Dr. S. Rascher
Stabsarzt Dr. E. Finke

I. Problem of the Experiment

Up to the present time there has been no basis for the treatment of shipwrecked persons who have been exposed for long periods of time to low-water temperatures. These uncertainties extended to the possible physical and pharmacological methods of attack. It was not clear, for example, whether those who had been rescued should be warmed quickly or slowly. According to the current instructions for treating frozen people, a slow warming up seemed to be indicated. Certain theoretical considerations could be adduced for a slow warming. Well-founded suggestions were missing for a promising medicinal therapy.

All these uncertainties rested in the last analysis upon the absence of well-founded concepts concerning the cause of death by cold in human beings. In the meantime, in order to clarify this question, a series of animal experiments were started. And, indeed, these officials who wished to make definite suggestions to the doctors in the sea-rescue service had to assume a great deal of responsibility if it came to a question of convincing and consistent results in these animal experiments. At this particular point it is especially difficult to carry the findings in animals over into the human field. In the warm-blooded, one finds a varied degree of development in the heat-regulating mechanism. Besides this, the processes in the skin of the pelted animals cannot be carried over to man.

II. General Procedure of the Experiment

The effect of *water temperatures* of 2°, 3°, to 12° C. [34°, 37°, to 54° F.] were investigated. A tank 2x2x2 m. [6⅔x6⅔x6⅔ ft.] served as an *experimental basin.* The water temperature was attained by addition of ice, and remained constant during the experiment. The experimental subjects were generally dressed in *equipment* such as the flier wears, consisting of underclothing, uniform, a one piece summer or winter protective suit, helmet, and aviators fur-lined boots. In addition they wore a life preserver of rubber or kapok. The effect of *additional protective clothing* against water-cold was tested in a special series of experiments, and in another series the *cooling of the unclothed person* was studied.

The *bodily warmth* was measured *thermoelectrically*. Following preliminary experiments in which gastric temperatures were measured by a thermic sound, we adopted the procedure of continuously registering *rectally* the body temperature [Kerntemperatur]. Parallel with this, the recording of the *skin temperature* was undertaken. The point of measurement was the skin of the back at the level of the fifth thoracic certebral process. The thermoelectrical measurements were controlled before, during, and after the experiments by thermometric tests of the cheek and rectal temperature.

In severe cooling, *checking of the pulse* is difficult. The pulse becomes weaker, the musculature become stiff, and shivering sets in. Auscultation during the experiment by means of a tube stethoscope fastened over the tip of the heart proved effective. The tubes were led out of the uniform and made possible the continuous *listening to the heart during the stay in the water.*

Electrocardiographic controls were not possible in the water. After removal from the water they were possible only in those cases in which a too severe muscle shivering did not disturb the electrocardiograph records.

The following *chemical studies* were carried out: following up of the *blood sugar picture* (continuous); the *sodium chloride picture* in the serum; the *nonprotein nitrogen* (*Rest–N*); the *alkali reserve*; the alkali reserve of the venous and arterial blood and *sedimentation rate* (before and after the experiment). Besides this the general *blood condition* and *viscosity* were followed during the experiment, and before and after the experiment the *resistance* of the red blood cells and the protein content of the blood plasma (this refractometrically) were measured.

The following *urinalyses* were made regularly: *sediment*, *albumen*, *sugar*, *sodium chloride*, *acetone*, *acetic acid*, as well as a qualitative *albumen* determination.

In part of the experiment lumbar and suboccipital punctures were made as well as corresponding spinal fluid studies.

Among *physical* and *therapeutic measures* the following were tested:

a. Rapid warming by means of a *hot* bath.
b. Warming by means of a *light cradle.*
c. Warming in a heated *sleeping bag.*
d. Vigorous *massage* of the whole body.
e. Wrapping in covers.
f. Diathermy of the heart.

In addition the following drugs were given: *Strophanthin* i. v.; *Cardiaz* 1 i. v. and i. c.; *Lobelin and Coramin* i. v. and i. c. In other experiments alcohol or grape sugar was given.

A part of the experiments was begun under *narcosis* (8 cc. *Evipan* i. v.).

III. The Clinical Picture of Cooling

The clinical picture as well as the behavior of the body temperature showed certain regularities in the general course; the time of appearance of certain phenomena was, however, subject to very great *individual variations.* As one might expect, a *good general physical condition* delayed the cooling and the concomitant phenomena. Further differences were conditioned by the *position of the subject in the water* and the *manner of clothing.* Furthermore, differences showed up between experiments in which the subject lay horizontally in the water so that the nape of the neck and the back of the head were splashed with water, and others in which neck and head protruded freely out of the water.

Peculiarly, the *actual water temperatures* between 2° C. and 12° C. [35° and 54° F.] had no demonstrable effect upon the rate of the cooling. Naturally such an effect must exist. But since besides the already mentioned individual differences and those due to experimental conditions, the various subjects cooled on different days at different rates of speed, the effect of the actual water temperatures between 2° and 12° disappears behind such variations.

If the experimental subject was placed in the water under narcosis, one observed a certain arousing effect. The subject began to groan and made some defensive movements. In a few cases a state of excitation developed. This was especially severe in the cooling of head and neck. But never was a complete cessation of the narcosis observed. The defensive movements ceased after about 5 minutes. There followed a progressive rigor, which developed especially strongly in the arm musculature; the arms were strongly flexed and pressed to the body. The rigor increased with the continuation of the cooling, now and then interrupted by tonic-clonic twitchings. With still more marked sinking of the body temperature it suddenly ceased. These cases ended fatally, without any successful results from resuscitation efforts.

In the course of the narcosis experiments the evipan effects in a few cases went directly over into a cold narcosis; in other cases one could determine a transitory return of consciousness, immediately following the awakening effect already described; at any rate, the experimental subjects were dizzy. Cold pain was not expressed.

Experiments without narcosis showed no essential differences in the course of cooling. Upon entry into the water a severe cold shuddering appeared. The cooling of the neck and back of the head was felt as especially painful, but already after 5 to 10 minutes a significant weakening of the pain sensation was observable. Rigor de-

veloped after this time in the same manner as under narcosis, likewise the tonic-clonic twitchings. At this point speech became difficult because the rigor also affected the speech musculature.

Simultaneously with the rigor a severe *difficulty in breathing* set in with or without narcosis. It was reported that, so to speak, an iron ring was placed about the chest. Objectively, already at the beginning of this breathing difficulty, a marked *dilatation of the nostrils* occurred. The *expiration was prolonged and visibly difficult.* This difficulty passed over into a rattling and snoring breathing. However, the breathing at this point was not especially deep as in Kussmaul's breathing nor were any Cheyne-Stokes breathing or Biot's breathing to be observed. Not in all subjects, but in a great number, a simultaneous hindering during this breathing through very profuse *secretion of mucous* could be established. Under these conditions sometimes a white, *fine-bubbled foam* appeared at the mouth which reminded one of an incipient *lung oedema*, though it was not possible to determine this symptom with certainty by clinical auscultation; only a sharpened unclean breath sound was audible. This foam might occur early, that is, at rectal temperatures of 32° C. to 35° C.; [90°–95° F.]. No special significance was to be attributed to this regarding the outcome of the experiment which is the opposite of the described relaxation of rigor. The *rate of breathing increased* at the beginning of the experiment, but after about 20 minutes it decreased to something like 24 per minute with slight variations.

In general a definite *dulling of consciousness* occurred at the dropping of the body temperature of 31° C. [88° F.] rectal temperature. Next, the subjects still responded to speech but finally answered very sleepily. The *pupils* dilated markedly. The contraction under light became increasingly weaker. The gaze was directed overhead with a compulsive fixation. After withdrawal from the water *an increase in the reflexes* was evident in spite of the rigor, and regularly a very marked drawing up of the testicles occurred which practically disappeared into the abdomen. Early in the experiment the *face* was pale. After 40 to 50 minutes *cyanosis* appeared. With this the face appeared redder, the mucous membrane bluish-red. The skin veins were not maximally collapsed and were virtually always penetrable.

The *heart activity* showed a constant change independent of all other individual variations, which was noticeable in all subjects. Upon introduction into the water with narcotized subjects as well as nonnarcotized subjects, the heart rate went suddenly to about 120 per minute. At a rectal body temperature of about 34° C. [93° F.] it then began to become increasingly slower and to sink continuously to about 50 per minute.

The bradycardia at a body temperature of about 29° to 30° C. [84° to 86° F.] changed suddenly to an *arrythmia perpetua* or, as the

case may be, to a *total irregularity* and this began with a slow form of about 50 beats per minute; this slow form of irregularity could be transformed into a faster one. The transformation to the faster form was not an unfavorable sign regarding life.

When an electrocardiographic control after the experiment was possible, it regularly showed a Vorhof flutter. Let it be anticipated *that this irregularity could continue to exist after the cessation of the cooling and a recovery of the body temperature to 33° or 34° C. [91° or 93° F.] 1½ to 2 hours after removal from the water*, but then customarily changed of itself and without therapeutic aids into a coordinated heart activity. In the same way let it be anticipated that in all cases with a lethal termination, a sudden cessation of the heartbeat ensued upon an irregularity of the slow type.

A check of the *blood pressure* was attempted, but was in no case satisfactory since an exact measurement was not possible in the decisive stage of the experiment because of the severe rigor and muscle fibrillation.

Reference has already been made to *individual differences in the behavior of the rectal temperatures.* Figure 4 gives an example which includes four experiments, in which four different experimental subjects were cooled at identical water temperatures and with identical clothing. It was shown that in water at 4.5° C. [40° F.] temperature the time required for reaching a rectal temperature of about 29.5° C. [85° F.] varies between 70 and 90 minutes. But nevertheless the diagram shows that in spite of these individual differences, it is observable that the progress of the rectal temperature proceeds according to rule. The body temperature begins to sink rapidly from about 35° C. [95°–97° F.].

It is of very great practical significance at this point that the body temperature continues to sink virtually lineally for a considerable time after removal from the water. This continued drop can last 20 minutes or more. During this drop an after-drop of 4° C. [7° F.] could be observed, and indeed not only at temperatures under 30° C. [86° F.]. In one case it was observed that an interruption of the experiment at 35° C. [95° F.] after a further lapse of 20 minutes the rectal temperature had fallen 4° to 5° C. [8° F.] more. We will later discuss the "arresting" of this after-drop by physical measures.

In our experimental series, the lowest rectal temperatures which could be survived varied individually just as did the progress of the temperature drop. In general (in six cases) death occurred with a drop in temperature to values between 24.2° and 25.7° C. [75.6° and 77.6° F.]. In one case, however, a drop to 25.2° C. was survived. This experiment fell outside the typical picture insofar as after 90 minutes at 26.6° C. [79.9° F.] a virtually stationary condition of the

rectal temperature had become established for 85 minutes. We will come back again to this special experiment.

The *skin temperature* sinks or drops much more rapidly than the rectal temperature. Within a minute there occurs a thorough saturation of the articles of clothing. Correspondingly the skin temperature falls already within 5 minutes to values between 24° and 19° C. [75° and 66° F.]. After 10 minutes it may have already dropped to 12° C. [54° F.]. Within 10 to 20 minutes more after the beginning of the experiment the steepness of the drop changes considerably. The curve of the skin temperature runs for some time, that is, for 15 to 30 minutes virtually horizontal. After this time there follows a further but now slower drop to the lowest figures, which may lie below 15° C. [59° F.] at the close of the experiment.

Parallel experiments which compare the *course of the rectal temperatures* and the cooling of the body with and *without submersion of neck and back of head* showed great difference in temperature drop. The curves pertain to the same experimental subject. The one with the deep fall to 26° C. [79° F.] in 70 minutes was obtained with a water temperature of 12° C. [54° F.] the other with a drop to 32.5° C. [90.4° F.] in the same time resulted from a water temperature of 5.5° C. [41.9° F.]. The very marked difference cannot be explained by a variation in resistance of the particular person, but is to be attributed to the position of the subject in the water and his head covering. In the experiment with the water at 12° C. [54° F.] the subject, in a kapok life preserver, lay flat in the water so that his neck and the back of his head were well submerged; beyond this he did not wear a flier's helmet. In the other experiment with water at 5.5° C. [41.9° F.] the head was covered with an aviator's summer helmet without headphones. The subject wore a rubber life preserver open at the back; with this, the head is somewhat out of the water.

In order to follow up the effect of *isolated cooling of the neck and the back of the head* on consciousness, body temperature, and circulation, this was undertaken in three special experiments. The experimental subject lay horizontal; the back of the head and the neck were dipped into a receptacle through which water of corresponding temperature was continuously run. In an experiment of 3 hours duration there occurred small temperature drops of not more than 0.8° C. [1.4° F.]. The water temperature was 1° to 2° C. [34° to 35° F.]. In one case after 50 minutes a marked sleepiness occurred which changed over into a deep narcosis. The heart activity was variable, and obvious bradycardia could not be observed. Irregularity never developed. Changes were not seen in the electrocardiograph. On the other hand in all three subjects the spinal fluid pressure was markedly increased after the ending of the experiment to maximal values of 300 mm. After the experiment, ataxia and definite Romberg phenomena were observed,

as well as exaggeration of the normal reflexes; pathological reflexes were absent.

IV. Blood, Spinal Fluid, and Urine During Freezing

The *differential blood smears* showed no special features during cooling. On the other hand the number of white and red blood corpuscles shows a regular change. The *number of leukocytes* rapidly increases, roughly with the beginning of the steeper temperature drop at about 35° C. [95° F.] rectal temperature to values of from 25,000 to 27,000 per cu. mm. After one hour a maximum may be reached and a falling-off begins in the number of leukocytes, while the body temperature falls still further. The number of red corpuscles undergoes an increase, though to a relatively small degree, which in its course resembles the change in the *number of leukocytes*. We saw increases up to 20 percent. This increase is interrupted even earlier than the increase in the number of leukocytes, so that both curves give no reflection of the temperature curve. The increase of the erythrocytes corresponded to the increase of the hemoglobin of from 10 to 20 percent. A reduction of the fragility of the red corpuscles could not be demonstrated with certainty, on the other hand, although in three experiments a definite hemolysis occurred.

The viscosity regularly increases with the beginning of the fall in temperature. The rise can reach values up to 7.8. This rise occurs very early, indeed, already at body temperatures of 35° C. [95° F.]. After that the values remain relatively constant with further temperature falls. The *albumen content of the plasma* was likewise increased after the experiment, on the average by 1 percent of the absolute value. Since these measurements could not be made as often as those of viscosity for technical reasons, the connection with the progress of the viscosity remained unclear. Such a connection could not be recognized from the absolute values obtained.

With the acceleration of the temperature drop, there always occurs a more marked increase of the blood sugar to maximal values which may attain an average *increase of 80 percent* and in a few cases may reach an *increase of over 100 percent.* According to that, the maximal value of about 27.5° C. [81.5° F.] is reached and is maintained for some time. It is to be observed that *as long as the temperature drop continues, in no experiment was it possible to observe a decrease in these high blood sugar values.* It is usually to be observed that a relatively rapid drop of the blood sugar values sets in when, after removal from the water, the temperature drop ceases and goes over into a temperature rise. We consider these findings to be of theoretical significance. During the isolated cooling of the neck and back of the head which was described in section III the blood sugar remained constant.

In striking contrast to the increase of the blood sugar, there was never established a *corresponding glycosuria* in the urine collected immediately after the experiment or withdrawn through a catheter, although considerable quantities of urine averaging 500 cc. were found in the bladder; in only two cases could traces of sugar (0.5 percent) be demonstrated. This paradoxical behavior can, perhaps, be explained in this manner: during the time of great blood sugar increase, a blocking of the kidneys had occurred, and that the associated urine quantities were formed before or after this blocking under reflex polyuria. Acetone and acetic acid, likewise, could not be demonstrated in the urine.

The *alkali reserve* in the arterial and venous blood was regularly very much reduced at the end of the experiments. Experiments concerning *oxygen saturation* could not be carried out. According to the color of the venous blood withdrawn from the arm veins, the saturation of this blood must have been very greatly reduced; the blood was virtually black as it came into the syringe. Noteworthy in this connection are the autopsy findings which were undertaken directly after death. In these, the blood in the right heart appeared very dark, and in the left heart very bright red. According to this, one must calculate upon an *increase in the saturation differential between the arteries and veins.*

Sodium chloride and *nonprotein nitrogen* in the blood were not clear in the blood at the end of the experiments or increased within the limit of error. *Sodium chloride in the urine* was generally less, corresponding to a reduction of the specific gravity. On the other hand at the end of the experiments *traces of albumin* could regularly be demonstrated *in the urine* and moderately increased leukocytes, occasional erythrocytes, and epithelial cells in the sediments. In particular cases, *albumin casts* were also observed. The reaction of the urine remained identical before and after the experiments virtually without exception. The studies of the bile yielded no results.

Lumbar and suboccipital punctures immediately after the experiments showed a considerable *increase in fluid pressure.* On the average it amounted to between 50 and 60 mm. In one case, an *increase to 420 mm.* was seen. The protein values were always normal. Cell increases did not appear, likewise no abnormal deviation of the colloidal gold curve was observed. The weaning of these findings for therapy is still to be discussed later.

V. Recovery After Cooling and Its Dependence Upon Physiotherapeutic Measures

The important fact has already been referred to that after rescue from the cold water, the body temperature sinks further and so a further temperature reduction of 4° C. [7° F.] may take place. As

was likewise emphasized, this may occur as a postphenomenon not only when low temperatures have been obtained already during the experiments, but it can be noted also at final temperatures of 35° C. [95° F.]. A dependence of this after-drop on the duration of the experiment could not be established; as a result it is difficult to calculate in advance. This fact becomes of great importance for practical measures; on the other hand it makes it difficult to gain an insight into the manner in which various physiotherapeutic measures affect the arresting of this after-drop and the recovery of the body temperature. Only because of the large number of the experiments was it possible to obtain well-founded concepts of this.

The *flattest rise of the body temperature* was to be observed when the subject was merely dried off, wrapped in warm cover, and left to himself after removal from the water. The recovery is greatly accelerated if the subject is placed in a hot bath as soon as possible after the removal of the wet articles of clothing. Warming under a light cradle assisted the temperature rise. Vigorous massage had a favorable effect, however, only if it was preceded by treatment in a hot bath or light cradle. *In no case was it established that there was any indication of bad effects from the hot water or the light cradle, or that the subject had been harmed in any way.* On the other hand, it was observed in three cases that a hot bath had doubtless a life saving effect. In two of these cases there had been complete cessation of heart and breathing action, and in one case the heart had stopped for several seconds after a markedly slackened irregularity before the subject was placed into water of not more than 50° C. [122° F.]. *As a result of this we can discard all traditional objections to a sudden rewarming.*

The favorable effect of a hot bath is still clearer in the observation of the general condition of the subject than in the temperature curves, although it cannot be presented objectively. The breathing very often becomes "freer" immediately upon introduction into the hot water. The hot water releases a strong stimulus; the unconscious subject often reacts with an outcry. Soon thereafter there occurs a distinct lessening of the severe rigor. The return of consciousness occurs sooner, and indeed at temperatures at which it did not usually happen under other methods of treatment.

In the first experiments with hot water treatment, this was continued only for 10 minutes; after that the subjects were removed and vigorously massaged. Under these circumstances it could be established that the temperature rise continued during the rubbing, indeed in one experiment the rise became steeper. As already indicated, this favorable effect of dry rubbing was not so pronounced without preliminary treatment by heat. It is important, too, that the rubbing be

done when the severe spasm of the peripheral vessels has already passed.

In view of this, the hot bath is the best method of treatment of the severely cooled person. However, in the practice of sea rescue service it will not be possible to carry out this method, since the necessary means are not available in aircraft and boats. Under these circumstances we must consider next only the rapid rewarming with light cradle or electrically *heated sleeping bag*. Therefore a sleeping bag as now used in the sea rescue service was also tested. It was evident that the temperatures which can be developed by this means are not sufficient for heat therapy. With those it was possible to reach a temperature of only 32° C. [90° F.] over the skin, with the heat turned on fully. Besides this, the wall of the foot-section of the sleeping bag is only partly heated; on the outer sides it remains completely cold. As long as no improvement and strengthening of the heating equipment of the sack is carried out, the sleeping bag can be considered only as a substitute for wrapping in warm covers.

The warming by means of the *light cradle* is more uneven than with a hot bath. With warming by light one might expect severe local vessel expansion with *danger of collapse.* Actually the subjects often complained of dizziness and nausea after reaching consciousness if the treatment lasted longer than 15 minutes. Occasionally vomiting occurred. In these cases it is indicated to switch off the light cradle and to pack the subject with covers. Apart from this it must be remembered that during unconsciousness the subject should be protected against direct contact with the lamps by means of covers, otherwise burns could occur during clonic-tonic convulsions.

This suggests that "*short waves*" be employed to supply heat, since it was shown in animal experimentation that by this means it is possible to bring about a thorough warming of the whole animal, which leads to a recovery of the animal with puzzling rapidity. We did not have the proper equipment for a thorough warming of a human being by this means. For this reason the *short wave therapy of the heart* was tried. This did not have any demonstrable effect. Above all, it is necessary to advise against a practical application of this method, since there exists the danger of prolonged burning even in full consciousness, as the result of cold anaesthesia, even if the treating physician carefully tries to avoid this.

The severe difficulty in breathing as well as the formation of foam before the mouth, which reminded one of incipient lung oedema, seemed to indicate oxygen therapy. Therefore this therapy was tried in four experiments. It showed no effect on either the breathing or the heart action. It has been pointed out that the arterial blood appears especially light red.

VI. Death After Cooling in Water

Practical and Theoretical Considerations

Reports to the effect that those who have been rescued at sea are imperilled for a considerable time after rescue has aroused special attention. It has been reported especially that sudden cases of death occurred as much as 20 minutes to 90 minutes after rescue, and that in mass catastrophes these sudden deaths could amount to mass-dying (rescue collapse). These observations have set off far-reaching discussions. Bleeding in the rewarming periphery, break-downs of neural and humoral correlations and similar ideas have been brought up.

In contrast to this our experiments give a relatively simple explanation of cold-death under these conditions. With the exception of a single case, a total irregularity of the heart chamber could be definitely demonstrated in all cases of cooling under 30° C. [86° F.], (50 experiments), when the rectal temperature reached 29° C. [84° F.] and usually already at a cooling of 31° C. [88° F.]. The exception was an experiment on an intoxicated subject, which is to be gone into more fully below (*see sec. VII*).

Furthermore heart-death was established clinically in all cases of death observed by us. In two cases breathing ceased simultaneously with the heart activity. These were cases in which it was specially noted that the neck and the back of the head lay deep in the water. In all remaining cases breathing outlasted the clinical chamber cessation by as much as 20 minutes. In part this was "normal, much decelerated breathing," in part an angonal form of gasping. As already referred to, an auricular flutter could be demonstrated cardiographically during the irregularity.

In cases in which a special *cooling of neck and back of head* had existed before death, the *autopsy* showed *a marked brain oedema*, a tight filling of the general brain cavity [Hirngefaesse] blood in the spinal fluid as well as blood in the Michaelisrhomboid.

The heart findings warrant our taking a certain attitude toward *the question of rescue collapse.* Death occurred relatively quickly after removal from the water, which may be compared with rescue. The longest interval involved was 14 minutes. It is to be noted, however, in the first place, that almost certainly a much larger number of deaths would have been observed if an active heat therapy had not almost regularly been coupled directly with the completion of the experiment; in the second place, that in such cases there would have been very much longer intervals. We have already called attention repeatedly to the after-cooling following the experiment. In every case where this had proceeded to a certain point, countermeasures were taken, since the experiments were never planned to end in death. One may well

imagine, however, that in mass catastrophes, in which almost exclusively rescue collapse has heretofore been described, the therapeutic measures were confined to an undressing and drying off of the rescued together with a subsequent wrapping in covers. Under these conditions after-drops of great magnitude and long duration were to be expected. In the course of this delayed fall in temperature, a heart-death might occur as in our experiments.

We should like to emphasize that the irregularity per se is not to be regarded in our experiments as a symptom of danger to life any more than in the clinic, but rather as a sign of direct heart damage, which increases continuously with further falling off of temperature, until finally the heart fails. If the temperature drop is arrested, the slow form of irregularity passes over into a rapid form. This transition is a favorable sign for survival; for this irregularity virtually always passes over of itself after a time averaging 90 minutes into normal heart activity. It continues therefore for a long time after the body temperature has already risen markedly. A danger to the circulatory system could not be demonstrated at this stage. In three cases the return of the heart action to normal occurred in spite of simultaneous energetic physical work.

With the demonstration that cold-death of man is primarily a heart-death, the essential points for therapy are also cleared up. The *cause of the severe heart* damage is another question. Since our studies were primarily aimed at the development of practical methods of treatment, we will not go very far into the theoretical concepts which may be developed in this connection. Still, several hints may be drawn from the blood studies:

1. The great increase of the *viscosity* causes an *increased loading* upon the heart.

2. The *choking of peripheral vessel* areas by the severe vessel contraction leads to an over-filling of the central areas. This appears not only from our autopsies. In all available records of autopsies which pertain to cases of death from cold in the water after sea disaster, we find uniformly a severe over-filling of the right heart.

3. It is to be calculated that, under the effect of the low blood temperature, the *heart* itself becomes severely *hypodynamic.* It has been proved long ago in animal experimentation that a Vorhof flutter can be developed by the overloading and cooling of the isolated heart.

Besides a physical damaging of the heart musculature by the cold, we must also keep in mind the *damaging by pathological products of metabolism.* Next, the sharp increase in blood sugar may be connected with the increased outpouring of adrenalin. The constancy of this increase of blood sugar during the temperature drop is, however, remarkable. One may well assume that this flow of adrenalin exhausts itself with the continuance of the temperature drop. With this

there would have to be a rapid decrease in the blood sugar if the oxidation processes were to continue undisturbed. The decrease in the alkali reserve or the development of an acidosis argues strongly for an injury.

Animal experiments, with general cooling, give grounds for believing that the intermediary metabolism is disturbed during drops in temperature; but this change is also discussed in connection with local freezing of the human being and has been proved to a certain extent. Furthermore, not only this disturbance shows a transition between general and local damage by cold. In both cases there occurs an increase in viscosity, which points to a change in the capillary walls and indicates the conclusion that there is a change in the permeability of those walls for protein and water.

The heart-death remains prominent, the regular increase of spinal fluid pressure with severe cooling of the neck and back of the head leaves it unsettled whether, in addition, this has pathognomonic significance for the outcome. With a fluid pressure of 420 mm. it must in fact be assumed that this participates in the development of bradycardia.

The detection of an increase in fluid pressure is also not without significance for therapy. One may think of a lumbar or suboccipital puncture as a measure to be prescribed. After a lumbar puncture there occurs a transformation of the slow form of arrhythmia into the rapid form. It must remain undecided whether such measures, which delay a rapid, active rewarming, are to be recommended for practical application in the sea-rescue service.

The idea that cold-death in water depends upon failure of the heart, accompanied or unaccompanied by breathing, is subject to limitation. One experiment among fifty-seven was typical. This involved survival of a cooling to 25.2° C. [77.4° F.] during a stay of 3 hours in water of 5.5° C. [41.4° F.]. The rectal temperature under these conditions remained constant within slight variations between 27° and 25° C. [81° and 77° F.] for the last hour and a half. Likewise, quite irregularly, no increase in blood sugar occurred. But most striking was the fact that until the end of the experiment and after its termination consciousness was undisturbed. The course of the experiment reminded one of the behavior of certain experimental animals which can withstand extremely low body temperatures for long periods of time. Lower, warm-blooded animals (for example, rats) can endure rectal temperatures of 20° C. [68° F.] for several hours. It is conceivable that this atypical experiment, had it been continued, would have shown also an atypical cause of death. Against this we have the fact that an irregularity had already set in but not before a temperature of 30.1° C. [86.2° F.] had been reached.

Also, aside from the fluid pressure increase, the part which the *central nervous system* plays in the outcome of the experiment seems to us to be *secondary*. The experiments with simultaneous cooling of the neck of course showed how the cooling of the neck and back of the head speeds up the lowering of temperature. This is to be explained by the fact that the counter-controls which are relayed from the temperature center to the periphery, either cannot exist further because of hypofunction of the centers (effect of oedema and cooling), or are no longer transmitted because of cold-blocking of the pathways. But likewise central counter-controls for the areas of the peripheral capillaries may fall; thus delaying the overloading of the heart by extended periphera vasco friction.

VII. The Influence of Pharmacology and the Question of Alcohol

Now experiments by *Jarisch* have shown that heart drugs like *strophanthin* and stimulants like *cardiazol* and *coramine* in therapeutic doses may react *toxically* upon cooled animals. These findings are a warning to be most careful in the medicinal treatment of severely cooled persons, though strophanthin and cardiazol have heretofore been expressly recommended in such cases.

In experiments with fatal outcome, the stopping of the heart occurred either in the water or after an interval of not more than 14 minutes after removal from the water. With such a rapid course of events it is unlikely that one can favorably influence the heart action by intravenous injections of strophanthin, especially because the circulation is at a very low ebb before the heart-death. For this reason, in a case whose condition was already very dangerous, *strophanthin was given intracardially* in a dose of 0.25 mg. Thereupon the heart condition grew still worse and after 5 minutes the heart stopped. One had the impression that the heart action was made worse by the intracardial injection of strophanthin. This is, however, the only case which left the possibility of damage by strophanthin in doubt. No such damage could ever be established in the intravenous injection of strophanthin. On the other hand no therapeutic effect, even with maximal doses of 0.5 mg., could be detected. Figure 11 [not reproduced], last section, shows the total duration in 10 cases of the irregularity observed without strophanthin dosage. This varies between 25 and 200 minutes. On the other hand in Figure 13 in the last section, first five cross-rows there are corresponding time values of 175 to 360 minutes. At various experimental time points during these experiments 0.25 to 0.5 of strophanthin were given. Accordingly, a shortening of the duration of the irregularity cannot be established. Furthermore no improvement of the pulse or general condition was ever noted. Obviously these experiments are too few

to rule out a possible favorable effect in all cases. Several hundred experiments would be necessary to obtain statistically reliable data on this point. And so, since contrary to animal experimentation, we could not unquestionably establish damage following intravenous strophanthin dosage, we may leave it to the treating physician whether or not he may still want to make an *experiment with strophanthin.* To be sure, such an employment of it must be advised against in case of a very much decelerated form of irregularity. This will be observed when there is the greatest danger; under such circumstances time should never be lost by experimenting with drugs, but every effort should be made in the direction of intensive heat therapy.

Also in the experiments with *cardiazol*, *coramin* and *lobeline* we restricted ourselves primarily to determining whether injurious effects occurred in the case of relatively large doses. Four cc. of 10 percent coramin as well as 2 cc. of 1 percent lobeline were injected intravenously at various stages of recovery without any marked objective and subjective deterioration of the state of the heart, the breathing, and the general condition. But just as with strophanthin, it is impossible to rule out a possible therapeutically favorable effect because of the small number of experiments. We never observed such an effect. Especially the marked deepening of breathing and of the irritability of the trigeminal nerve which usually sets in very suddenly after coramin (for example, sneezing immediately after the injection) were always missing. Contrary to strophanthin, in the case of which we cannot advise against experimentation by intravenous injection under certain conditions, we believe on theoretical grounds that such experiments with *peripheral circulatory drugs* which may heighten the vessel tonus are not indicated because of the following considerations: The damage to the heart is to be attributed, among other things, to an overloading, which is caused by a blocking of enlarged vessel areas, aside from an increase in viscosity. If the vessel tonus is further increased in the areas which have remained unimpeded, the conditions for the heart are thereby made worse.

The sceptical attitude toward the effect of drugs is strengthened above all by the observation that in the majority of the experiments in which no drugs were given, even the most severe disturbances of the peripheral circulation were reduced remarkably rapidly under intensive heat treatment. In this connection it must be emphasized that besides the recovery of body temperature through heat therapy an unloading of the heart takes place because the blocked areas open up. Contrary to earlier concepts, according to which there was danger of hemorrhage into the periphery during rapid rewarming, and according to which one sought to avoid this hemorrhage by wrapping

up the extremities as well as by very slow warming, the "venalous bleeding into the periphery" may be life-saving under some circumstances. An exception, namely, loval pyperacmia after considerable rise in temperature and corresponding reestablishment of circulation has already been described in the reference to the danger in some cases of very prolonged treatment in the light cradle.

The familiar increase of peripheral blood volume as a result of alcohol leads one to expect that very intoxicated persons cool more rapidly. Figure 14* shows an experiment from which we may conclude that *actually acceleration of the cooling* does set in after partaking *liberally of alcohol before the experiment.* It is very remarkable that in such an experiment, *the only exception among all cooling experiments*, irregularity was absent in a cooling to 28.1° C. [82.6° F.]. Even if it was not possible to reproduce this apparent protection against irregularity caused by partaking of alcohol in control experiments on other subjects, there remains the possibility that the distending of the peripheral vessels delays the overloading of the heart, just as on the other hand it increases the speed of cooling.

Our observations contradict the old seafaring custom of pouring *alcohol* into a person *already cooled*, since, according to these observations the temperature tends, even in slight degrees of cooling, to sink further for a long time after rescue. As long as there is no active supply of heat from outside, the disadvantage of an increased heat loss will reduce the utility of stopping the peripheral vessel blockage. Also in *later stages* of recovery one must obviously be very careful in giving alcohol; above all, this warning is emphasized by the possibility that one must reckon with a total irregularity after more than an hour, which may go unnoticed by the inexperienced experimenter.

* * * * * * *

VIII Preventive Measures

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IX. Concerning Life Jackets [Schwimmwesten]

* * * * * * *

X. Summary

1. The curve of rectal temperature of human beings chilled in water of 2° C. [35.6° F.] to 12° C. [53.6° F.] shows a gradual drop to about

*Figure 14, headed "Mean Values from Group of Four Experiments each at 4° C. [39.2° F.] to 4.5° C. [40.1° F.] Water Temperature," is a chart showing the skin temperature and the rectal temperature of four experimental subjects each of whom respectively in a sober state, was given 100 cubic centimeters of alcohol one hour before the start of the experiment, and was given 100 grams of pure dextrose one hour before start of the experiment. The three curves indicating skin temperature show drops to 16° C. and below after 60 to 80 minutes; the three curves showing rectal temperature show a low of 22.3° C. and 21.3° C. after 70, 100, and 110 minutes respectively, and then an increase to 31.3° C. after 130, 200, and 230 minutes respectively.

35° C. [95° F.], after which the drop becomes rapid. Death may occur at rectal temperatures below 30° C. [86° F.].

2. Death results from heart failure. The direct damage to the heart becomes evident from the total irregularity observed in all cases, setting in at approximately 30° C. [86° F.]. This cardiac damage is due to overloading of the heart, caused by the marked and regular increase in the viscosity of the blood, as well as by the marked throttling of large peripheral vascular areas; besides, a direct injury to the heart by the cold is also probable.

3. If the neck is also chilled, the lowering of the temperature is more rapid. This is due to interference with the temperature-regulating and vascular centers; cerebral oedema also makes its appearance.

4. The blood sugar rises as the temperature falls, and the blood sugar does not drop again as long as the body temperature continues to fall. This fact suggests an intermediary disturbance of metabolism.

5. Respiration of the chilled subject is rendered difficult due to the rigor of the respiratory musculature.

6. After removal from the cold water, the body temperature may continue to fall for 15 minutes or longer. This may be an explanation of deaths which occur after successful rescue from the sea.

7. Intensive rewarming never injures the severely chilled person.

8. Strophanthin treatment was not observed to have been successful. The question of the use of strophanthin remains open, however. Remedies which influence the peripheral circulation are definitely not advisable.

9. The most effective therapeutic measure is rapid and intensive heat treatment, best applied by immersion in a hot bath.

10. By means of special protective clothing, the survival time after immersion in cold water could be extended to double the survival time of subjects who were immersed without protective clothing.

11. Certain proposals for improvement of life jackets are being made.

Concluded on 10 October 1942.

[Signed] Prof. Dr. Holzloehner
Dr. Rascher
Dr. Finke

* * * * * * *

Behavior of the heart action under the influence of medication

Subject	Water temperature [° centigrade]	Occurrence of irregularity		Therapy		Pulse becomes regular		Total duration of irregularity	Remarks
		After experimental time [minutes]	At body temperature [° centigrade]	Mg. stroph.	At minute [minute]	After experimental time	After administering strophanthin		
*	*	*	*	*	*	*		*	*
B. L.	4	55	30	0.25 mg., 4 cc. coramin.	65				Death in the seventieth minute, ten minutes after removal from water.
L. H.	4	30	31.5	0.25 mg., intracardial.	60				Death (heart stopped) five minutes after administering strophanthin, ten minutes after removal from water.
V. E.	5.2	60	30.3	0.25 mg., heart, massage, coramin, cardiazol, artificial respiration.	68				Death (heart stopped) in the sixty-sixth minute during removal from water.
S. M.	6	75	31.4	Artificial respiration, cardiazol.	82				Death (heart stopped) in the eighty-seventh minute, seven minutes after removal from water.
L. O.	4.5	30	31.2	L. P.	57				Death (heart stopped) in the sixty-fifth minute, eight minutes after removal from water.

FIGURE 13.

TRANSLATION OF DOCUMENT 1609-PS
PROSECUTION EXHIBIT 92

LETTER FROM HIMMLER TO RASCHER, 24 OCTOBER 1942, AND NOTE BY RUDOLF BRANDT

Reich Leader SS
Nr 1397/42

Field Command Post, 24 Oct 1942

Dr. Sigmund Rascher
Munich, Trogerstr. 56

Top Secret

3 copies
2d copy

Dear Rascher!

I acknowledge the receipt of your letter of the 9th and 10th and both notes of 16 October 1942.

I have read your report regarding cooling experiments on humans with great interest. SS Sturmbannfuehrer Sievers should arrange the possibility of evaluation at institutes which are connected with us.

I regard these people as guilty of treason and high treason, who, still today, reject these experiments on humans and would instead let sturdy German soldiers die as a result of these cooling methods. I shall not hesitate to report these men to the offices concerned. I empower you to make my opinion on this known to the offices concerned.

I invite you to a personal conference in November as I cannot make it sooner despite my great interest.

SS Obergruppenfuehrer Wolff will once again get in touch with Field Marshal Milch. You are empowered to make a report to Field Marshal Milch—and, of course, to the Reich Marshal if he has time—concerning those who are not doctors.

I think that covers which have heat packets or something similar sewed in their lining are the best for the warming of those who were stranded at sea and were picked up in boats or small vessels and where there is no possibility of placing these chilled people in a hot bath. I take it for granted that you know these heat packets which we also have in the SS and which were used by the Russians a great deal. They consist of a mass which develops a warmth of 70° to 80° upon addition of water and retains it for hours.

I am very curious as to the experiments with body warmth. I personally take it that these experiments will probably bring the best and lasting results. Naturally, I could be mistaken.

Keep me informed on future findings. Of course we will see each other in November.

Heil Hitler!

Yours

[Signed] H. HIMMLER

2. SS Obergruppenfuehrer Wolff

Sent with request for acknowledgment. I present the report with the request for acknowledgment and return since the Reich Leader SS in Munich wants these copies again.

[Signed] BRANDT
SS Sturmbannfuehrer

TRANSLATION OF DOCUMENT NO–323
PROSECUTION EXHIBIT 94

MEMORANDUM OF RASCHER ON WOMEN USED FOR REWARMING IN FREEZING EXPERIMENTS, 5 NOVEMBER 1942

Sigmund Rascher, M. D.

Munich, Trogerstrasse 56, 5 November 1942

Subject: Requested report on concentration camp prostitutes.

For the resuscitation experiments by animal warmth after freezing as ordered by the Reich Leader SS I had four women assigned to me from the women's concentration camp Ravensbrueck.

One of the assigned women shows unobjectionably Nordic racial characteristics: blond hair, blue eyes, corresponding head and body structure, 21¾ years of age. I asked the girl why she had volunteered for the brothel. I received the answer: "To get out of the concentration camp, for we were promised that all those who would volunteer for the brothel for half a year would then be released from the concentration camp". To my objection that it was a great shame to volunteer as a prostitute, I was told: "Rather half a year in the brothel than half a year in the concentration camp". Then followed an account of a number of most peculiar conditions at camp Ravensbrueck. Most of the reported conditions were confirmed by the three other prostitutes and by the female warden who had accompanied them from Ravensbrueck.

It hurts my racial feelings to expose to racially inferior concentration camp elements a girl as a prostitute who has the appearance of a pure Nordic and who could perhaps by assignment of proper work be put on the right road.

Therefore, I refused to use this girl for my experimental purposes and gave the adequate reports to the camp commander and the adjutant of the Reich Leader SS.

[Signature] DR. S. RASCHER

TRANSLATION OF DOCUMENT NO–320
PROSECUTION EXHIBIT 103

LETTER FROM SIEVERS TO BRANDT, 28 JANUARY 1943, AND RASCHER'S REPORT ON HIS DISCUSSIONS WITH GRAWITZ AND POPPENDICK

The Ahnenerbe
The Reich Business Manager
To the Reich Leader SS — Berlin, 28 January 1943
Personal Staff — G/R/8 S 1/Sb
[illegible shorthand notes]

Attention: SS Obersturmbannfuehrer Dr. R. Brandt
Berlin S. W. 11, Prinz Albrecht Str. 8

Secret!

Subject: Research of Dr. Rascher.

Dear comrade Brandt!

I submit to you enclosed a documentary note of Dr. Rascher on his discussion with the Reich Physician SS [Reichsarzt SS] of 13 January 1943. I would be much obliged to you if you could advise us as to what attitude we or Dr. Rascher are to take in the future. I am slightly astonished about the course of the discussion, for the orders of the Reich Leader SS were especially to the effect that we—that is the Ahnenerbe—were to take Dr. Rascher's work under our care. The argument of SS Gruppenfuehrer Grawitz, that it constituted an unbearable situation to have a non-physician give information on medical matters, is not pertinent. I have never claimed to be a judge of medical matters, nor do I consider it as one of my duties. My duty merely consists of smoothing the way for the research men and seeing that the tasks ordered by the Reich Leader SS are carried out in the quickest possible way. On one thing I certainly can form an opinion—that is, on who is doing the quickest job.

If things are to go on in the future as SS Gruppenfuehrer Grawitz desires, I am afraid that Dr. Rascher's work will not continue to advance as fast and unhampered as hitherto.

With comradely greetings,

Heil Hitler!
Yours
[Signature] SIEVERS

[Stamp]:
Personal Staff RF SS / Enclosure
Received on: 4th Feb. 1943 1
Journal No: 1786/43
To: RB

Please turn!

COPY

Documentary note on discussion Reich Physician SS [Reichsarzt SS] Dr. Grawitz—SS Obersturmbannfuehrer Dr. Poppendick—SS Hauptsturmfuehrer Dr. Rascher, 13 January 1943.

RASCHER: Reports on freezing experiments with water and emphasizes that they have been concluded practically, but not in theory.

GRAWITZ: Question about the memorandum. Whether Rascher believes this to be absolutely established for dry freezings, too?

RASCHER: No, a lot of theoretical work is still to be done, primarily many practical experiments have still to be conducted.

GRAWITZ: That is my opinion, too. We cannot distribute a memorandum to the troops, abolishing all former views, if this is not entirely well-founded, as otherwise uncertainties will arise among the troops. I shall write to Obersturmbannfuehrer Dr. Brandt that I am asking the Reich Leader SS not to distribute the memorandum before a well-founded method of treatment of dry frozen persons has been established.

RASCHER: Very well, that's why the Reich Leader SS gave me the order of 13 December 1942. But I urgently want to emphasize that the results of the freezing experiments with water have been established and are well-founded.

GRAWITZ: Well, now, this had to be mentioned in the letter to Brandt so that you are not blamed in any way! You see, from my former activities (mention of some hospital) I know so much about metabolism that I am almost a specialist in this field and can help you enormously.

RASCHER: As I understood, Gruppenfuehrer, that's why I am to turn to your office for glass materials, chemicals, etc.

GRAWITZ: No. Not only for that. You have to turn to *me* in all medical matters, since after all, I am Reich Physician SS and all medical affairs are subordinate to me. It is absolutely necessary that all medical matters destined for the Reich Leader SS go through my office.

RASCHER: I don't know, Gruppenfuehrer, if this was the intention. I am under the direct orders of the Reich Leader SS and I have always reported directly to him. I have never received orders to another effect.

GRAWITZ: You certainly will be transferred to the Waffen SS?

RASCHER: Yes, I hope so. The transfer is under way.

GRAWITZ: There you are. Then you will be under my orders as a physician at any rate and all matters will have to go through my office, otherwise the situation would be unbearable.

RASCHER: But I am under the orders of the Ahnenerbe! Am I to report to you, too, what I have to report to the Ahnenerbe?

GRAWITZ: Certainly! At least a copy on all medical matters has to be sent to me for my information. For it is an unbearable situation to have a non-physician, such as Standartenfuehrer Sievers, inform me on medical matters if he does not have the adequate special medical education. I have nothing against Sievers. Well, yes, I know you are of the Ahnenerbe. I don't say anything against your work for the Ahnenerbe, but I want you to work with the Ahnenerbe for the Reich Physician. I shall also write to Brandt on that matter.

POPPENDICK: Well, I already had to ask Standartenfuehrer Sievers several times to come to me to receive information. In the long run all medical matters wind up with us, anyway.

GRAWITZ: You see, this is the point! When the Reich Leader SS does not understand a medical matter clearly he hands the matter over to me, anyway.

RASCHER: Of course, I am grateful for every kind of help, but I believe that I am primarily under the orders of the Ahnenerbe.

GRAWITZ: Certainly not when you are a member of the Waffen SS. I am able to be of much use to you through my knowledge and I shall inform Brandt to that effect. It isn't that I bear a grudge against you or your work, but all things have to follow their course. Don't be afraid, scientific thefts don't occur with us. As I know, you have to acquire the right of giving lectures at universities as a qualified academic teacher under Pfannenstiel. And you will need support. Do you want to be supported by me?

RASCHER: Of course, I thank you most obediently. Where I need support, I gladly accept it.

GRAWITZ: Well, we shall wait then with the memorandum until you have a few hundred cases, then we shall continue. Of course, I would not like the Reich Leader SS to believe that I want to impede you. But if something has not yet been proved to a great extent, we cannot distribute anything to the troops that might spread uncertainty among the responsible authorities!

Everything may be true for freezing by water, but we don't have that in the Waffen SS. So you agree to wait with the distribution of the memorandum.

RASCHER: Gruppenfuehrer, anyway it is entirely your affair, whether the memorandum is issued now, as you are responsible for it. I composed the memorandum on the basis of these few cases of dry freezing, because the Reich Leader SS pressed for its publication. In composing the memorandum, I was fully aware of the necessity that many experiments still have to be carried out, and I also submitted this view on the occasion of a discussion with the Reich Leader SS in

Dachau. But the Reich Leader saw the results in Dachau and in wanting to help the troops ordered the memorandum to be drawn up.

GRAWITZ: In composing a memorandum or in any other scientific work you should not let anybody press you, not even the Reich Leader SS, that will never do! Well now, you'll send me a copy of all your medical correspondence with the Ahnenerbe, and you'll no longer write directly to the Reich Leader SS in medical matters but write to me, as it comes to me anyway. Will you do that?

RASCHER: I'll have to discuss the matter with Standartenfuehrer Sievers first, this comes too much as a surprise.

GRAWITZ: Well, I shall send you a copy of my letter to Dr. Brandt so that you can get a clear picture. I am very pleased to have established such a close contact with you.

This is a certified true copy.

[Signature] WOLFF
SS Untersturmfuehrer

TRANSLATION OF DOCUMENT 1616–PS
PROSECUTION EXHIBIT 105

LETTER FROM RASCHER TO HIMMLER, 17 FEBRUARY 1943, AND SUMMARY OF EXPERIMENTS FOR REWARMING OF CHILLED HUMAN BEINGS BY ANIMAL WARMTH, 12 FEBRUARY 1943

Dr. S. Rascher
SS Hauptsturmfuehrer

Munich, 17 February 1943

To the Reich Leader SS and Chief of the German Police Heinrich Himmler

Berlin SW 11, Prinz Albrecht Str. 8

Dear Reich Leader,

Enclosed I present to you in condensed form a summary of the results of the experiments made in warming up people who have been cooled off by using animal heat.

Right now I am attempting to prove through experiments on human beings that it is possible to warm up people cooled off by dry cold just as fast as people who were cooled off by remaining in cold water. The Reich Physician SS, SS Gruppenfuehrer Dr. Grawitz, doubted very much that that would be possible and said that I would have to prove it first by 100 experiments. Up to now I have cooled off about 30 people stripped in the open air during 9–14 hours at 27°–29°. After a time corresponding to a transport of 1 hour, I put these subjects in a hot bath. *Up to now* every single patient was completely warmed up within 1 hour at most, though some of them had their

hands and feet frozen white. In some cases a slight fatigue with slightly rising temperature was observed on the day following the experiments. I have not observed any fatal results from this extremely fast warming up. I have not so far been able to do any warming up by "Sauna" as ordered by you, my dear Reich Leader, as the weather in December and January was too warm for any experiments in the open air, and right now the camp is closed on account of typhoid and I am not allowed therefore to bring in subjects for "Sauna" experiments.

* * * * * * *

With most obedient greetings and sincere gratitude, and

Heil Hitler!

Yours very devotedly

RASCHER

(enclosure)

Secret

Experiments for rewarming of intensely chilled human beings by animal warmth

A. *Purpose of the Experiments*

To ascertain whether the rewarming of intensely chilled human beings by animal warmth, i. e., the warmth of animals or human beings, is as good or better than rewarming by physical or medical means.

B. *Method of the Experiments*

The experimental subjects were cooled in the usual way—clad or unclad—in cold water of temperatures varying between 4° C. and 9° C. The rectal temperature of every experimental subject was recorded thermoelectrically. The reduction of temperature occurred within the usual span of time varying in accordance with the general condition of the body of the experimental subject and the temperature of the water. The experimental subjects were removed from the water when their rectal temperature reached 30° C. At this time the experimental subjects had all lost consciousness. In eight cases the experimental subjects were then placed between two naked women in a spacious bed. The women were supposed to nestle as closely as possible to the chilled person. Then all three persons were covered with blankets. A speeding up of rewarming by light cradles or by medicines was not attempted.

C. *Results*

1. When the temperature of the experimental subjects was recorded it was striking that an after-drop of temperature up to 3° C. occurred, which is a greater after-drop than seen with any other method of re-

warming. It was observed, however, that consciousness returned at an earlier point, that is, at a lower body temperature than with other methods of rewarming. Once the subjects regained consciousness they did not lose it again, but very quickly grasped the situation and snuggled up to the naked female bodies. The rise of body temperature then occurred at about the same speed as in experimental subjects who had been rewarmed by packing in blankets. Exceptions were four experimental subjects who, at body temperatures between 30° C. and 32° C., performed the act of sexual intercourse. In these experimental subjects the temperature rose very rapidly after sexual intercourse, which could be compared with the speedy rise in temperature in a hot bath.

2. Another set of experiments concerned the rewarming of intensely chilled persons by one woman. In all these cases rewarming was significantly quicker than could be accomplished by two women. The cause of this seems to me that in warming by one woman only, personal inhibitions are removed, and the woman nestles up to the chilled individual much more intimately. Also in these cases, the return of complete consciousness was strikingly rapid. Only one experimental subject did not return to consciousness and the warming effect was only slight. This person died with symptoms suggesting cerebral hemorrhage, as was confirmed by subsequent autopsy.

D. *Summary*

Rewarming experiments of intensely chilled experimental subjects demonstrated that rewarming with animal warmth was very slow. Only such experimental subjects whose physical condition permitted sexual intercourse rewarmed themselves remarkably quickly and showed an equally strikingly rapid return to complete physical well-being. Since excessively long exposure of the body to low temperatures implies danger of internal damage, that method must be chosen for rewarming which guarantees the quickest relief from dangerously low temperatures. This method, according to our experiences, is a massive and rapid supply of warmth by means of a hot bath.

Rewarming of intensely chilled human beings by human or animal warmth can therefore be recommended only in such cases in which other possibilities for rewarming are not available, or in cases of specially tender individuals who possibly may not be able to stand a massive and rapid supply of warmth. As for example, I am thinking of intensely chilled small children, who are best rewarmed by the body of their mothers, with the aid of hot water bottles.

Dachau, 12 February 1943.

[Signature] Dr. S. Rascher
SS Hauptsturmfuehrer

TRANSLATION OF DOCUMENT NO-268
PROSECUTION EXHIBIT 106

LETTER FROM HIPPKE TO HIMMLER, 19 FEBRUARY 1943, ON FREEZING EXPERIMENTS IN DACHAU

The Inspector of the Medical Service of the Luftwaffe

Berlin W8, 19 February 1943
Leipziger Strasse

Phone numbers: [illegible]
Cable address: Reichsluft Berlin

File No. 55 No. 81038/43 (2 IIB)

Reich Leader,

The experiments conducted in Dachau concerning protective measures against the effects of freezing on the human body by immersion in cold water have led to results of practical use. They were conducted by the Stabsaerzte [Captains] of the Luftwaffe, Professor Dr. Holzloehner, Dr. Fink, and Dr. Rascher in cooperation with the SS, and are now finished. The results were reported upon by those who worked on them during a conference on medical problems arising from distress at sea and winter hardships, on 26 and 27 October 1942, at Nuernberg. The detailed report on the conference is at present in state of preparation.

I thank you most gratefully for the great assistance that the cooperation of the SS has meant for us in conducting the experiments, and beg you to express our thanks, too, to the commander of the Dachau camp.

Heil Hitler!

[Signature] Prof. Dr. Hippke

2 [?] Feb 1943
1509/43
RF
[stamp illegible]
[figures 1509/43 handwritten]

TRANSLATION OF DOCUMENT 1580–PS
PROSECUTION EXHIBIT 107

LETTER FROM HIMMLER TO RASCHER, 26 FEBRUARY 1943, ON FREEZING EXPERIMENTS IN THE CONCENTRATION CAMPS AUSCHWITZ AND LUBLIN

The Reich Leader SS
1516/43

26 February 1943

Secret

Dear Rascher,

Best thanks for your letter of 17 February* with report on warming-up experiments. I agree to experiments being made at Auschwitz or Lublin, although I believe that the time for the cooling-off and warming-up tests under natural conditions of cold weather has nearly passed for this winter.

I am sending this letter at the same time to SS Obergruppenfuehrer Pohl, whom I request to order the execution of your experiments at Lublin or Auschwitz.

Kind greetings and

Heil Hitler!

Yours

[Signed] H. HIMMLER

2. SS Obergruppenfuehrer Pohl

Transmitted with request to take note and to take the necessary steps.

By order,

[Signature (illegible)]
SS Obersturmbannfuehrer

PARTIAL TRANSLATION OF DOCUMENT NO–292
PROSECUTION EXHIBIT 111

LETTER FROM RASCHER TO RUDOLF BRANDT, 4 APRIL 1943, REPORTING ON DRY-FREEZING EXPERIMENTS IN DACHAU

Dr. med. Sigmund Rascher

[4 April 1943]

To Herr Oberregierungsrat SS Obersturmbannfuehrer Dr. R. Brandt
Berlin SW 11, Prinz Albrecht Strasse 8

Much esteemed Obersturmbannfuehrer!

* * * * * * *

The question of the saving of people frozen in the open air has in the meantime been cleared up, since, thank goodness, there was once again

*1616-PS, Pros. Ex. 105, see p. 249.

a period of heavy frost weather in Dachau. Certain people were in the open air for 14 hours at −6° C., reached an internal temperature of 25° C. with peripheral freezings, and were *all* able to be saved by a hot bath. As I said: it is easy to contradict! But before someone does so, he should come and see for himself. Moreover, a report about freezing in the open air will be sent to the Reich Leader in the next few days.

With best wishes,

Heil Hitler!
Yours gratefully,
[Signature] S. Rascher

TRANSLATION OF DOCUMENT NO–322
PROSECUTION EXHIBIT 114

LETTER FROM RASCHER TO KEINDL, 28 APRIL 1943, ABOUT PREVIOUS FREEZING EXPERIMENTS CONDUCTED AT SACHSENHAUSEN

Dr. med. S. Rascher, SS Hauptsturmfuehrer
Personal Staff Leader SS
Division (Abteilung) Chief at the Institute for Military Scientific Research
Office A (Amt A)

Dachau 3K, 28 April 1943

To the Commander of the Sachsenhausen Concentration Camp,
SS Obersturmbannfuehrer Keindl
Sachsenhausen, near Oranienburg

Obersturmbannfuehrer!

By order of the Reich Leader SS, I have been conducting freezing experiments on human beings in the Dachau concentration camp for more than a year. Today I learned from an experimental subject that I was not the only one conducting these experiments, but that, on the contrary, already in October and November 1938, similar experiments were conducted in the Sachsenhausen concentration camp. SS Hauptsturmfuehrer Dr. Samenstrang is said to have frozen experimental subjects—that is prisoners—in cold water, and subsequently revived them by means of warm water or hot compresses. As I was to work out and have worked out a prescription for the Waffen SS for the resuscitation of frozen persons (for the campaign in the East), knowledge of all preliminary experiments in my field of work is of great importance for me.

I therefore request that if possible you let me know what kind of experiments were conducted in your camp, and, if possible, what results were obtained in connection with these experiments.

As you might not know anything about me, please make inquiries about me, if necessary, either at the Personal Staff of the Reich Leader SS (Obersturmbannfuehrer Baumert) or from the Commander of the Dachau concentration camp, SS Sturmbannfuehrer Weiss.

Yours sincerely
Heil Hitler!

TRANSLATION OF DOCUMENT NO-231
PROSECUTION EXHIBIT 116

LETTER FROM RASCHER TO SIEVERS, 17 MAY 1943, CONCERNING A CONFERENCE WITH GEBHARDT ON FREEZING EXPERIMENTS

Copy
By Messenger!
Dr. med. Rascher, SS Hauptsturmfuehrer
Dachau 3K, 17 May 1943
To: Reich Business Manager of the Ahnenerbe Society
Attn: SS Standartenfuehrer Sievers
Berlin-Dahlem, 16 Pueckler Street

Dear Standartenfuehrer!

The following contains a short account of my report to SS Gruppenfuehrer Dr. Gebhardt.

On 14 May 1943, I reported to SS Gruppenfuehrer Prof. Dr. Gebhardt at Hohenlychen. I had hardly arrived, when SS Gruppenfuehrer Dr. Gebhardt asked me in a very loud voice to explain how I dared to submit specialist medical reports directly to the Reich Leader SS (he was referring to the treatise on "The Cooling of Human Beings Outdoors"). I actually did not even get a chance to speak and practically couldn't reply anything. Then, when I tried to reply, Prof. Dr. Gebhardt said that if I wanted to defy him, my train would be leaving for Berlin at 3 o'clock. When I was finally given the opportunity to speak I was able to point out to Prof. Dr. Gebhardt that the report in question was not meant to be a strictly scientific work, but simply was a short information for the Reich Leader SS on the results of the experiments conducted up to now. Dr. Gebhardt had taken the view that the report was unscientific, and if a student of the second term dared to submit a treatise of that kind, he would throw him out. Later on I was able to tell him that of course all the physiological-chemical experiments that could be carried out in Dachau with the available instruments had indeed been conducted. Whereupon Dr. Gebhardt replied: "I can imagine that you did a lot of work; one can tell it from this job. If I had not believed that you did a lot of work, I would not have asked you to come at all."

In addition Dr. Gebhardt said that he intended to merge all the groups of physicans working independently within the SS, since that would suit the Reich Leader SS much better than individual people working on their own. Besides that, he said that I somehow ought to learn university methods of working since very likely I did not yet have the proper training. He suggested that it was necessary for me to get out of Dachau since there I was quite left to myself and had no guidance whatsoever; that since I intended to enter upon a university career, I would by all means have to complete the training of a university assistant first. He further said that all those SS physicians, who are qualified to enter upon a university career, had the duty to do so. Upon my reply that for that reason I was already in touch with Professor Pfannenstiel, Professor Gebhardt replied that these matters ought to be processed by a centralized agency. In future it would not do that I send any reports directly to the Reich Leader SS, but that further reports to serve their purpose would have to be transmitted through him to the Reich Leader. If the report had reached a suitable stage, he would first inform the Reich Leader SS, and then go to see the Reich Leader SS together with me. Finally Dr. Gebhardt asked me to give him data on my personal and scientific career to enable him to make further arrangements. He requested me to call again in the afternoon.

When I called in the afternoon, I was, as in the morning, accompanied by SS Hauptsturmfuehrer Dr. Fischer. This time Dr. Gebhardt was extremely amiable. He asked me whether I now agreed with his arrangements; it would be by far the best I could do, if I joined him. I should not worry, but just continue my work in Dachau, until I had finished my jobs. Later, one would see what was to be done for the future. Upon my question, what it was all about, and who was my superior, whether the Reichsarzt SS, SS Gruppenfuehrer Dr. Grawitz, who had come for an inspection several days ago, the Reich Leader SS, as he personally had promised me, or the Ahnenerbe, of which I had been a member for years, Dr. Gebhardt suggested that all that will be straightened out. Just trust it to me. But I'll need your curriculum vitae soon, since I have to report to the Reich Leader SS on 23 May.

May I ask you, Standartenfuehrer, under whom I am actually working? Under the Reich Leader SS, the Ahnenerbe, the Reich Physician SS or Dr. Gebhardt? Dr. Gebhardt has already asked me why

I am not a member of the Waffen SS. Upon my answer that Dr. Hippke does not like to let me go, he declared that I was too able for him to let me go. Standartenfuehrer! If the same tug of war starts in the Waffen SS as has been going on between Luftwaffe and the SS, I'd rather do without a transfer to the Waffen SS. I was promised that I would continue to work under the Reich Leader SS or under the Ahnenerbe. But I cannot serve several masters at the same time. Of course I am convinced that SS Gruppenfuehrer Prof. Dr. Gebhardt has the best of intentions. His assistants are enthusiastic about him. If I am compelled to ask Prof. Dr. Gebhardt's advice each time I am going to start a new experiment, I will get so much involved in the academic routine that I won't even be allowed to experiment with such a method as rapid resuscitation which overthrows all the established clinical experiences because the results contradict Prof. Dr. Gebhardt's methods which are based upon centuries-old clinical experiences. Also the cooperation with Professor von Luetzelberg would thus come to an end, as these experiments are from the very start contradictory to the hitherto recognized clinical experiences. I think, this arrangement would stop everything that really ought to be experimented.

I pray you with all my heart, Standartenfuehrer, to handle this affair in such a way that Prof. Dr. Gebhardt, who is a very close friend of the Reich Leader SS does not become my enemy. I think that Prof. Dr. Gebhardt can and will be an extremely disagreeable adversary. Before I get into trouble with him, I would rather resign my job and ask for an immediate transfer to the Luftwaffe for combat service. I therefore ask you again to deal with this affair with as much circumspection as it actually requires, because in addition I am convinced that Prof. Dr. Gebhardt (apart from his personal ambition) really has good intentions.

* * * * * * *

Very respectfully yours and

Heil Hitler!

Yours very devotedly

[Signature] S. Rascher

This is to certify that the above copy is true:

[Signature] Sievers

SS Standartenfuehrer.

TRANSLATION OF DOCUMENT NO–432
PROSECUTION EXHIBIT 119

LETTER FROM RASCHER TO NEFF, 21 OCTOBER 1943, CONCERNING DRY-FREEZING EXPERIMENTS

Dr. S. Rascher

Dachau, 21 October 1943

To
Police-Rottwachtmeister Walter Neff
Police Training Battalion I
Dresden-Hellerau

Dear Neff:

Your letter dated 11.10 reached me here on 15.10. First of all many thanks for your decision to write such a detailed letter. I really was very pleased about it. To come right away to the affair concerned: I am very sorry to hear that you are being bullied, especially as there exists no reason at all for it. Please let me know the name, rank, and address of your commanding officer because I most certainly will take the matter up. There is no purpose at all in your getting stuck there. Finally I too know how the general condition of your health had been, when you were still here, and I also am able to judge that you cannot go through heavy infantry training. I am glad that you have become accustomed to the ideals of the place and I am convinced that you would be glad to go to the front. But on the other hand, I believe that I need you more urgently than you are needed at the front. As a matter of fact I need you for the following: *From the Reich Research Council* [Reichsforschungsrat] I got the order to carry out open country freezing experiments and I think they will take place on the Sudelfeld. Now I need urgently a most reliable man, acquainted with the material, and that is you in this case. During the next few days I will go with Sievers to the Fuehrer's Headquarters [Fuehrerhauptquartier], and report there in this sense, and will let you know immediately.

* * * * * * *

I expect your notice soon, and remain until then with sincerest comradely regards,

Your old chief,
[Initialed] R.

TRANSLATION OF DOCUMENT NO–690
PROSECUTION EXHIBIT 120

LIST OF RESEARCH PROJECTS FROM THE FILES OF THE REICH RESEARCH COUNCIL

Cancer Research—70—copies 15 [pencil notation]
25th copy.

Worked on by: Professor Dr. K. Blome
Berlin SW 68
Lindenstr. 42 77 [pencil notation]
Telephone: 174871 929 [pencil notation]

Priority: "SS"

SS-No.	Requested by—	Topic	Registration No.	Degree of secrecy
0453	Schwarz, Kruft	Combating of potato bug.	2058/15	
0496	Seel, Poznan	Investigation of means for combating agricultural parasites and for disinfection of the soil.	2118/15	
0328	Rascher, Munich	Rewarming after general freezing of the human body; healing after partial freezings; adjustment of the human body to low temperatures.	1879/15	
0329	Hirt, Strasbourg	Changes in the living organism under the influence of poison gases.	1881/15	
0415	von Borstell, Colonel, Weimar-Nohra.	Development of aircraft apparatus for insecticides and fungicides which can be sprayed.	1975/15	Secret.

Cancer Research

Worked on by: Prof. Dr. K. Blome
Berlin SW 68
Lindenstr. 42
Telephone: 174871

Deputy: Dr. Breuer
Berlin-Steglitz
Grunewaldstr. 35
Telephone: 726071

No.	Requested by—	Topic
0454/1857/15	Zipf, Koenigsberg	Tests of food colors for their cancer-causing effect on animals.
0473/1838/15	Spek, Heidelberg	Physio-chemical investigations on living cells.

[Stamp] Top Secret

The Reich Research Council 22 [pencil notation]
The Director of the Business Management Committee 3d copy
Cancer Research

Authorized person:
Prof. Dr. Kurt Blome
Berlin SW 68, Lindenstr. 42

"Nesselsted"
Prof. Dr. Blome, Commissioner for Cancer Research, Berlin SW 68, Lindenstr. 42

DE 1413—RPS—VLI/44
SS 4891—0242 (1739/15) 44

EXTRACTS FROM THE TESTIMONY OF TRIBUNAL WITNESS WALTER NEFF*

EXAMINATION BY PROSECUTION

* * * * * * *

MR. MCHANEY: When did the freezing experiments start?

WITNESS NEFF: The first freezing experiments started during August or at the end of July. They were conducted by Prof. Holzloehner, Dr. Finke, and Dr. Rascher. The freezing experiments can be divided into two separate classes, the Holzloehner-Finke series, which were later dropped, and a series where Dr. Rascher conducted these experiments himself.

*Complete testimony is recorded in mimeographed transcript, 17–18 December 1946, pp. 595–695.

Q. All right. Suppose you describe the experimental basin.

A. The experimental basin was built of wood. It was 2 meters long and 2 meters high. It was raised about 50 centimeters above the floor and it was in Block No. 5. In the experimental chamber and basin there were many lighting instruments and other apparatus which were used in order to carry out measurements.

Q. Now, you have stated that you can divide the freezing experiments into two groups, one where Holzloehner and Finke were working with Rascher and then the period after Holzloehner and Finke had left?

A. Yes.

Q. Now, will you tell the Tribunal approximately how many persons were used over the whole period? That is, including both groups that you have mentioned.

A. Two hundred and eighty to three hundred experimental subjects were used for these freezing experiments. There were really 360 to 400 experiments that were conducted, since many experimental subjects were used for more than one such experiment—sometimes even for three.

Q. Now, out of the total of 280 or 300 prisoners used, approximately how many died?

A. Approximately 80 to 90 subjects died as a result of these freezing experiments.

Q. Now, how many experimental subjects do you remember that they used in the Holzloehner-Finke-Rascher experiments?

A. During that period of time approximately 50 to 60 subjects were used for experimental purposes.

Q. Did any of these experimental subjects die?

A. Yes. During that period of time there were about 15, maybe even 18 cases of death.

Q. When was that experimental series concluded?

A. It was concluded in the month of October. I think it was at the end of October. At that time Holzloehner and Finke discontinued these experiments, giving the reason that they had accomplished their purpose and that it was useless to carry out further experiments of that kind.

Q. And then Rascher continued experiments on his own?

A. Yes. Rascher conducted these experiments saying that he had to build a scientific basis for them and he prepared a lecture for Marburg University on the subject.

Q. How long did Rascher continue to experiment with freezing by cold water?

A. Until May 1943.

Q. Now, were the experimental subjects for the freezing experiments selected in the same way as for the high-altitude experiments?

A. No. Here Rascher turned to the camp administration and told them that he needed so and so many experimental subjects. Then the political department of the camp selected 10 inmates by name. That list was sent to the camp commandant and was signed by the camp commandant and they were then sent to Rascher's station and the subjects on that list had to be experimented on. I was able to use the original list as evidence in the first Dachau trial.

Q. Do I understand then that the experimental subjects used in the freezing experiments were political prisoners?

A. There were a number of political prisoners and also a number of foreigners, but there were also prisoners of war and inmates who had been condemned to death.

Q. These persons were not volunteers, were they?

A. No.

Q. Suppose you describe to the Tribunal exactly how these freezing experiments were carried out, that is what tests they made, how they measured the temperature and how the temperature of the water was lowered in the basin and so forth?

A. These basins were filled with water, and ice was added until the water measured 3°, and the experimental subjects were either dressed in a flying suit or were placed into the ice water naked. During the period when Holzloehner and Finke were active, most experiments were conducted under narcotics because he maintained that you could not find the exact condition of the blood, and that you would exclude the will power of the experimental subject if he was under an anaesthetic. Now whenever the experimental subjects were conscious, it took some time until so-called freezing narcosis set in. The temperature was measured rectally and through the stomach through the Galvanometer apparatus. The lowering of the temperature to 32° was terrible for the experimental subject. At 32° the experimental subject lost consciousness. These persons were frozen down to 25° body temperature, and now in order to enable you to understand this problem, I should like to tell you something about the Holzloehner and Finke period. During the period when Holzloehner and Finke were active, no experimental subject was actually killed in the water. Deaths occurred all the more readily because during revival the temperature dropped even further and so heart failure resulted. This was also caused by wrongly applied therapy, so that in contrast to the low-pressure experiments, deaths were not deliberately caused. In the air-pressure chamber on the other hand, each death cannot be described as an accident, but as willful murder. However, it was different when Rascher personally took over these experiments. At that time a large number of the persons involved were kept in the water until they were dead.

Q. Now, Witness, you have identified the defendant Weltz in the defendants' dock. On what occasion did you meet Weltz?

A. I met Weltz in Munich. I saw him there once. According to my recollection it was in Luftgau Kommando VII, Prinzregenten Strasse No. 2, and I saw him speak to Rascher there, and at a later date Rascher told me that that was Professor Weltz. I remember this incident especially since Rascher often discussed Weltz and his animal experiments, which he carried out with reference to freezing. I never saw Professor Weltz in Dachau or anywhere in the camp.

Q. Do you know, Witness, whether Rascher and Weltz exchanged information on freezing problems?

A. I don't know that. I would assume so, since Rascher discussed Professor Weltz' experiments, and he certainly must have had some discussions with Weltz on the subject. However, I know of no correspondence with Weltz.

Q. Do you recall the occasion when two Russian officers were experimented upon in the freezing experiments?

A. Yes.

Q. Will you relate that incident to the Tribunal?

A. Yes. It was the worst experiment which was ever carried out. Two Russian officers were carried out from the bunker. We were forbidden to speak to them. They arrived at approximately 4 o'clock in the afternoon. Rascher had them undressed and they had to go into the basin naked. Hour after hour passed and while usually after a short time, 60 minutes, freezing had set in, these two Russians were still conscious after 2 hours. All our appeals to Rascher asking him to give them an injection were of no avail. Approximately during the third hour one Russian said to the other, "Comrade, tell that officer to shoot us." The other replied, "Don't expect any mercy from this Fascist dog." Then they shook hands and said "Goodbye, Comrade." If you can imagine that we inmates had to witness such a death, and could do nothing about it, then you can judge how terrible it is to be condemned to work in such an experimental station.

After these words were translated for Rascher in a somewhat different form by a young Pole, Rascher went back into his office. The young Pole tried at once to give them an anesthetic with chloroform, but Rascher returned immediately and threatened to shoot us with his pistol if we dared approach these victims again. The experiment lasted at least 5 hours until death occurred. Both corpses were sent to Munich for autopsy in the Schwabing Hospital.

Q. Witness, how long did it normally take to kill a person in these freezing experiments?

A. The length of the experiment varied, according to the individual case. Whether the subject was clothed or unclothed also made a difference. If he was slight in build and if in addition to that he was

naked, death often occurred after only 80 minutes. But there were a number of cases where the experimental subject lived up to 3 hours, and remained in the water until finally death occurred.

* * * * * * *

Q. Will you describe to the Tribunal the method used for rewarming the victims of the freezing experiments?

A. During the period when Rascher, Holzloehner, and Finke were there, rewarming was in the beginning carried out by massage and partly by means of injections of drugs affecting the heart, and also by means of rewarming by electrical heaters and sometimes by means of a warm bath. At the end of the Holzloehner period, the hot water rewarming method was introduced, and that was carried out until the end of the rewarming experiments with the exception of a few special experiments with animal heat. About 10 women from the concentration camp at Ravensbrueck were ordered to report to Dachau to supply the heat and were forced to press themselves against the body of the frozen person in order to rewarm him in that manner. These are the methods which were employed in order to rewarm the frozen body.

Q. Now, Witness, did I understand you to say that the hot water bath method of rewarming was not adopted until after Holzloehner and Finke had left?

A. After Holzloehner and Finke had left the station, hot water rewarming was also carried out.

Q. Do you recall receiving orders in September 1942 from Sievers to take the hearts and lungs of five inmates who had been killed to Professor Hirt in Strasbourg for further scientific study?

A. It is correct that I had to take specimens belonging to five persons who died during experiments from the morgue to Hirt in Strasbourg. I myself, of course, have never done any dissecting and therefore did not prepare these specimens. Sievers ordered me to go to Strasbourg and there deliver the glasses to Professor Hirt, together with an accompanying letter. This was the end of September or the beginning of October. The travel warrant had been made out by Sievers and the traveling expenses were also paid by the Ahnenerbe.

Q. Had the five experimental subjects been killed shortly before you left for Strasbourg?

A. I cannot remember with absolute certainty whether the specimens were fresh or whether they were taken from older corpses. I do know that among the specimens there was one from a Dutchman. I cannot recollect for certain the nationality of the other four.

Q. Did you deliver these hearts and lungs to Professor Hirt in Strasbourg?

A. I delivered them in Strasbourg, not to Professor Hirt himself but to the laboratory at the University there. The letter to Professor Hirt I handed to him personally, and he wanted me to return and see him in the afternoon, since he had to give me something to take to Dachau. He gave me a sealed letter to Dr. Rascher and a parcel for Sister Pia which I handed to Rascher to pass on.

Q. Now, Professor Hirt was also a member, in fact the head of the Department of the Ahnenerbe Society, was he not?

A. We knew that Professor Hirt was also making experiments and belonged to the Ahnenerbe Society.

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EXTRACT FROM THE TESTIMONY OF DEFENDANT HANDLOSER*

CROSS-EXAMINATION

MR. MCHANEY: Let us pass on, General. Your attorney asked you whether or not you ever gained any information concerning the freezing experiments carried out by Rascher, Holzloehner, and Finke. Do you deny that you ever received knowledge on that matter?

DEFENDANT HANDLOSER: I said, no.

Q. As a result of the Eastern campaign weren't you very much interested in "Cold" problems?

A. Yes.

Q. Isn't that why you sent army officers to the Luftwaffe conference in October 1942?

A. Of course the interest in cold problems was of an important nature. I do not know who assigned them. From May until the end of October I was with headquarters in the Ukraine and I believe that the chief probably telephoned me as to whether or how many people we should send, and he may have made some proposal, and I think I would have told him on that occasion "Yes, I am in full agreement. Send somebody there." It is quite a matter of course that we took people who knew something about cold because they were the people who would be interested in it.

Q. Well, having sent them, you then immediately lost interest in the problem, I suppose?

A. No, I did not lose interest. At some period of time somebody probably reported to me whether something particular had happened or whether there were any particular results or not, and what could be exploited by us. But, at that time there was no mention of anything in particular having occurred, nor was it said that any particular revolutionary results were achieved. At any rate, I cannot recollect that anything like that happened. I should merely like to point out that my interest in cold problems was in our particular sphere of

*Complete testimony is recorded in mimeographed transcript, 11, 12, 13, and 18 February 1947, pp. 2815–3104.

these problems, that is the so-called earth-bound cold, at normal height or at the most in the mountains where it concerned soldiers in mountain troops. That was something which we discussed during various meetings, at first in 1942; it was discussed to a great extent, and very exact directives were contained in the reports of these meetings. You will find them in 1942 and you will find them in 1943. Naturally we were interested in cold problems, and it is quite a matter of course that whenever we were invited by the Luftwaffe to send our experts we did. The same thing is done everywhere, not only in the army and in the field of medicine, but in technical fields as well.

Q. Well, I thought that was probably correct, General; now I want to put it to you that Holzloehner had made a very remarkable discovery and one which I am sure came to your attention. Holzloehner and Rascher had found out that this massive warm bath was an extremely effective way of reviving persons from shock due to long exposure to cold, a treatment which had been first discovered by a Russian in the 19th century but had been forgotten somehow. Wasn't this a matter remarkable enough so that Schreiber, who was at this meeting, or one of the many other army doctors who were down there, would perhaps call it to your attention, after the extreme cold you had suffered in Russia the previous winter?

A. I said already before that we were always interested in cold problems and as you say, very correctly, mainly because of this terrible winter of 1941–42. I knew before that our regulations which were valid up to the war and perhaps during the first year of the war, stated that people who were frozen had to be rewarmed very slowly. The entire population was informed that a frozen person should not be rewarmed too quickly. Even before that we included in our regulations that one should concentrate on rewarming, and certain forms of rewarming were described. If we army people who knew the Russian front were not as impressed by this warm bath, as you may think we were, it was probably because there were no warm baths available along the entire Eastern front, and this plays quite a large part in the impression any new invention may have made on us.

Q. Well, now, General, let me put it to you this way. Did you make any changes in the basic directives concerning the rewarming after shock from exposure to cold after this Luftwaffe conference or after the conference in December 1942?

A. If you look through the reports of the meetings and the directives it is quite possible that somewhere, I can't tell you exactly where although I have it, something is said about warm or hot baths in regard to freezing. You yourself brought to our knowledge again, through a document, that in December 1942, that is, after Nuernberg, Holzloehner spoke about his rewarming questions during a conference in the Academy. That was reported to 300 or 400 men who

transferred that information to the front and I am sure that later on new directives contained information about the warm bath, too.

Q. I am sure it did, too, General. That is the reason I asked you because I think that there is no doubt that great importance was attached to the results of this experiment in Dachau by Rascher, Holzloehner, and Finke. I now want to ask you if you didn't actually hear Holzloehner speak in December 1942 at the meeting of consulting physicians at the Military Medical Academy?

A. I cannot recollect that, and I must say once more that that is something which was done within the various expert branches. I am sure you will see that these expert branches dealt with these suggestions themselves. However much one so desires, it is not possible to participate in several expert branches simultaneously.

Q. Well, then, to put it to you, General, this speech by Holzloehner is reported in our Document NO–922, Prosecution Exhibit 435, and it goes on—you have a very short synopsis here of his report but he does give clinical observations in cases of deaths resulting from cold, and I find that you made some comments at this cold session on page 51 of the original report. It reads:

"Handloser stresses the extraordinary importance of education also in combating cold effects and appeals to all medical officers, in their capacity as leaders of the health service, to see to it that through frequently repeated explanations each individual is taught to observe the necessary precautionary measures."

A. May I ask you where it is? Is it with reference to the lecture by Holzloehner? At any rate, it seems to be within the framework of the cold problem.

Q. General, I will put the German to you so that you can see for yourself. General, let us read the little summary of the speech by Holzloehner because the Tribunal does not have this document before it. It reads:

"Stabsarzt Professor Holzloehner:

"Prevention and Treatment of Freezing

"In case of freezing in water of a temperature below 15° biological counter-measures are practically ineffective, whether in the case of human beings or animals. Human beings succumb to reflectory rigidity, increase of blood sugar, and acidosis, at an earlier stage and to a greater extent than animals. At a rectal temperature of below 30° under such conditions of distress at sea auricular flutter regularly sets in; at under 28° heart failure frequently occurs in human beings. (Over-exertion due to unequal distribution of blood, increased resistance, and increased viscosity.) Treatment with drugs is senseless and has no effect. In the case of human beings, best

results are also achieved with hot baths. The foam-suit was developed as a prophylaxis against freezing in water below 15°."

Now, General, after that little summary of the talk by Holzloehner there were several other lecturers on freezing problems and then at the end we have the gentlemen who made some comments on these lectures; we find among them Bremer, Dr. Hippke, the man who commissioned these experiments, and Jarisch and Buechner. Now I want to ask you if this document refreshes your recollection so that you can tell us whether or not you heard this report by Holzloehner.

A. Yes, after reading what I have in my hand now, it is quite possible that I listened to this lecture. At the same time, it is a proof that I have not as good a memory as you assumed, because I already had this document in my hands once before here in Nuernberg; you once gave it to me and I forgot about it.

Q. Now, did Holzloehner describe clinical observations about human deaths resulting from cold in this lecture which you heard?

A. I cannot tell you that.

Q. Does it not say so in your own report here?

A. It says here that Holzloehner belonged to the Luftwaffe and as far as I was informed later, Holzloehner had gained a large amount of experience from his service on the Atlantic Coast. I am sure that was something which was mentioned during his lecture. He had an emergency sea station near the Atlantic coast and near that there was a hospital where he treated these frozen people who had been rescued from the sea. There was no cause to suspect anything special behind this.

Q. Was it apparent to you that he carried out experiments on human beings?

A. No.

Q. Well, General, we have heard some testimony here about the talk Holzloehner gave in Nuernberg 2 months before this and, as I recall, there was some indignation in this meeting in October 1942, because all these gentlemen realized what had happened; are you telling me that no rumor of this seeped up from Nuernberg to Berlin in 2 months, so when the same man gave the same talk, you gentlemen were in complete ignorance about the fact that these experiments had been carried out on living human beings in a concentration camp?

A. I cannot say how far any discussions or any indignations were noted in Nuernberg. At any rate, I never heard anything about any rejection or any indignation. I could well imagine that if I were to hold a lecture somewhere and I afterwards gained the impression that there was some kind of obscurity, or some particular sensation, and if 2 months later, I gave the same lecture at another place, I would naturally change my lecture and would draw my conclusions from what I had learned previously. I am sure that this might well have

been the case here. At any rate after reading this excerpt, if a few pages are missing here and if one doesn't look at the pages exactly, one must assume that the man noted down here as Handloser spoke immediately after the lecture of Holzloehner. I believe that the report of the meeting itself will show you that a few other lectures took place between the lecture of Holzloehner and the discussion. You will also have to admit that considering the fact that we were approaching winter again (this meeting took place in December 1942) my remarks did not refer so much to Professor Holzloehner's lecture, but were merely a reminder that we wanted to do everything and in that way wanted to concentrate our entire interest on the front where freezing took place in order to help our soldiers. That is all this discussion was.

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EXTRACT FROM THE TESTIMONY OF DEFENDANT SCHROEDER*

CROSS-EXAMINATION

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MR. MCHANEY: I don't believe you have told the Tribunal yet about the conversation you had with Holzloehner on his freezing experiments, have you?

DEFENDANT SCHROEDER: What experiments do you mean? What conversation do you mean? Do you mean in 1940?

Q. General, you know as a matter of fact there apparently is some dispute between the prosecution and yourself about the precise date, but you knew during the course of the war that Holzloehner, Finke, and Rascher had carried out experiments on concentration camp inmates at Dachau?

A. Yes, I learned that in my office in 1944, as I said here before.

Q. And, I am suggesting to you that after you learned that Holzloehner had been implicated in those experiments you called him in and talked to him?

A. Yes, oh yes. I know when you mean now, yes. There are two things which play a part here. I said yesterday that in 1940 Holzloehner had furnished people who were rescued from the sea to the Rescue Station at Witze, where he first gained experience. Then I lost sight of Holzloehner, since I left the west in the year 1941, and I saw him again for the first time in the fall of 1944, when for some reason that I do not know, he visited one of the men in my office. At that time I spoke to him briefly, and since I had learned in the meantime that he was conducting experiments in Dachau, I asked him whether that was correct or how he was doing it. I remember at that time he told me that he was conducting experiments based on the experience which he had gained on the coast, and he was supple-

*Complete testimony is recorded in mimeographed transcript, 25, 26, 27 February 1947, pp. 3470–3700.

menting these experiments by conducting experiments on human beings in Dachau. At that time he was speaking about six or seven criminals who had been condemned to death were put at his disposal for that purpose. At that time, he said nothing about any fatalities. I gained the impression then that the entire manner of the experiments had impressed him mentally. I had the feeling that he did not want to speak about it; his suicide later confirmed that.

Q. Well, General, I think this is all rather significant. I think you should have probably made some mention of it before this date. When was this meeting with Holzloehner?

A. I mentioned it during my interrogation; I think that was in the fall of 1944. I cannot remember the exact date. It could have been November 1944. I am not quite sure.

Q. Well, this was after you had initiated the sea-water experiments, then; is that right?

A. Considerably later, yes.

Q. And, as I recall, you also said in this interrogation that you had seen this report by Holzloehner, which I understand you have denied heretofore; now, had you seen Holzloehner's report or not?

A. No, nor did I ever say that I had. He reported to me on this, but he did not show me a report.

Q. Now, General, I am reading from a summary of an interrogation of you made on 21 October 1946, and one paragraph reads as follows: "Schroeder also knows about the 'See-Not' and 'Winter-Not' reports from which he could conclude that human beings were used for experiments. This could also be concluded from Holzloehner's report on the freezing experiments, and it could furthermore be seen from the comments which Dr. Rascher wrote on the above matter. Schroeder learned about these matters in 1944." Now, is this summary inaccurate?

A. Very inaccurate.

Q. All right, let us get it straight. In the first part of 1943 you received a report on the Nuernberg meeting, did you not?

A. Yes.

Q. In May 1944, Becker-Freyseng told you that Holzloehner, Finke, and Rascher, had carried out experiments on concentration camp inmates at Dachau, did he not?

A. That is not the right way of putting it. He said that Holzloehner had made the experiments; nothing was said to me about Rascher and Finke. I did not know them then. I learned their names only since I was imprisoned.

Q. You mean you had not heard up to then that Rascher had worked with Holzloehner on these experiments; is that right?

A. No, I did not say that. I heard Rascher's name for the first time in this report of 1945 when I was imprisoned.

Q. Well, I do not know, General, but I am going to look in just a minute—I think Rascher's and Finke's names are mentioned in this report which you got in the first part of 1943 on the Nuernberg meeting. You do not recall that?

A. No.

Q. And I very well remember that Rascher had made a comment on this rather long lecture by Holzloehner, from which it could clearly be seen that Rascher himself was experimenting with Holzloehner; do you not remember that?

A. I can say that now, because in the meantime I have seen these reports, "See-Not" and "Winter-Not," and have read them through carefully and acquainted myself with the various names, and I know that in this report there is an extensive report by Holzloehner and after that a short remark by Rascher. I did not pay any attention to it at that time because I had no connections with Rascher, nor did I see any reason why I should; but I did interest myself in Holzloehner's report because I knew him from working with him on the French coast.

Q. Well, we will come back to the report in just a moment, but right now I want to go on with your discussion with Holzloehner. Can you tell us, more or less, exactly what he told you?

A. That is a little too much to ask me to recall a brief remark that I made in 1944 on the occasion of a very short visit. I do recall that I met Holzloehner outside my hut, and I asked him to step in a moment; then I asked him about the experiments. He answered me briefly and that was the end of our conversation. The only thing that struck me was that Holzloehner, who previously had been a very lively and brisk person, seemed very depressed and worn out. I attributed that to the 5 years of war that had passed. That there were other reasons, perhaps, for this, I could only adduce later from his tragic demise. It could be that I commented to my adjutant on this subject. I am not sure at the moment, but I think it is quite possible because Augustinick knew Holzloehner very well and liked him. Perhaps Augustinick can be asked about that later.

Q. You said a moment ago you got the impression that Holzloehner did not want to talk about these experiments, and you also had been dabbling in Dachau experiments yourself. I think under these circumstances it might be expected that you would have questioned Holzloehner rather closely about what went on in his experiments. You did not do that?

A. He told me briefly that his observations from the English channel coast could be checked on experiments being performed in Dachau on criminals condemned to death, and that these experiments had been described in the report which he had submitted. That made it per-

fectly clear what was going on, so why should I ask anything further? I was not particularly interested in going into that specific result.

Q. Well, were the sea-water experiments over at that time?

A. Yes, some time before, and that must have been why Holzloehner came to me because these experiments had long been concluded.

Q. You did not have any one in the nature of representative at the Nuernberg meeting in October 1942?

A. No.

Q. Now, you mentioned this report which you received on that meeting; that is Document NO–401, Prosecution Exhibit 93. You stated that you did not know that Rascher and Finke were working with Holzloehner. I found a statement on page 11 of this report which reads as follows: "For the relevant statements, we have to thank the cooperation of Stabsarzt Dr. Rascher and Stabsarzt Dr. Finke; they refer to a stay in water of 2 to 12 degrees." That statement indicates very clearly that Rascher and Finke were working with Holzloehner, does it not?

A. Yes.

Q. Now, I think you stated to your own defense counsel that it was impossible for you to conclude from this report that experiments had been carried out, but rather, you thought they were clinical observations made on people fished out of the North Sea, is that right?

A. Yes, I based my testimony solely on the Holzloehner report which was the only thing that interested me. There were reports by Rose and others but I did not read them. I glanced through them briefly but gave no further attention to them because I did not know the people who had drawn them up.

Q. Let's just look briefly at one or two points here and see if they might not indicate to you, if you thought about it a little bit, that these were really experiments and not clinical observations on people who accidentally fell into the sea. For instance, on page 11 of the translation it states as follows:

> "The rapidity with which numbness occurs is remarkable. It was determined that already 5 to 10 minutes after falling in, an advancing rigor of the skeletal muscles sets in, which renders the movement of the arms especially increasingly difficult. This also affects respiration. Inspiration is deepened, and expiration is delayed. Besides this, heavy mucous secretions occur."

Now, when you read that little paragraph about a man who had been in the water 5 to 10 minutes where it is said that he had rigor of the skeletal muscles, where his inspiration is deepened and his expiration is delayed and where there is a heavy mucous secretion, did you imagine that they had Dr. Holzloehner in a lifeboat in the North Sea making these observations on some aviator who had fallen in accidentally? Did you think that, General?

A. Yes, that's what I thought. You don't know the local situation at Visson. There were a beach and dunes, and a guard from the rescue station always stood on the dunes to keep an eye on the water and the surrounding country, particularly when flights to England were taking place, so that it actually did happen that fliers bailed out and fell into the water just in front of the shoreline. Rescue boats were ready at that time and went out to sea immediately, so that it was altogether possible that fliers who fell into the water close to the coast could very quickly be observed and rescued. These are the facts of what actually took place at that rescue station at that time.

Q. On the same page they have this remark: "With the drop of the rectal temperature to 31°, a clouding of consciousness occurs, which passes to a deep, cold-induced anaesthesia if the decline reaches below 30°."

Now, do you suppose that they pulled this aviator in and inserted a rectal thermometer and found his temperature at 31° and then tossed him back and let it drop another degree, all the time watching closely a clouding of consciousness, and then hauled him back in when it was 30° and noted a deep, cold-induced anaesthesia?

A. No, that isn't the correct way to put it either. This is one of the observations that was new to us and to which we paid a great deal of attention in order to explain these incomprehensible fatalities, namely, the fact that when the people were removed from the water their temperature still dropped and simultaneously with the drop in temperature a fatal collapse of the heart occurred. This was one of our fundamental and new observations. And I must report again and again that this rescue house was a small place, but it did have the apparatus for observing these people very exactly. That was the sense of the whole thing.

Q. General, you've already covered yourself a little bit by saying you didn't read these discussions after Holzloehner's lecture very carefully; but I want to read you the one by Rascher, in any event, and see if you won't admit that if you had read this little comment by Rascher that there could have been no doubt whatsoever in your mind that experiments were carried out and not observations on aviators in the North Sea. This is on page 15 of the translation, and Rascher has said:

"Supplementing the statements of Holzloehner, there is a report on observations according to which cooling in the region of the neck only, even if it lasts for several hours, causes merely a low sinking of the body temperature up to 1° C., without changing the blood sugar level or the heart function. Checking of the rectal temperature was carried out by taking the temperature in the stomach and showed complete agreement. After taking alcohol, body temperature decreases at a quicker pace. After taking dextropur, the de-

crease is slower than with the experiments in both a sober and an alcoholic condition. Hot infusions (10 percent dextro solution, table salt solution, tutofusin, table salt solution with pancortex) were successful only for a time."

Now, General, if you had read that, wouldn't it have been perfectly clear that these were experiments?

A. Today, of course, after this whole question has been exposed I should; but at that time I never suspected the possibility from that report that these were a special group of human experiments. I can say that here under oath, and I should like to reiterate it. That was my attitude toward the matter at that time and it has only been changed by what I have discovered here.

Q. I might also point out to you that Benzinger's comment expressly speaks of Holzloehner's experiments repeatedly; but I assume that that also made no impression on you?

A. I can say one thing to that. My comrades, the medical officers in my office at that time in Italy, had no notion either that human experiments were the basis for these reports. Never was one single word said about such a thing on the occasion of my inspection visits. Of course, during my visits to the Mediterranean such matters were brought up; but I never heard any indication that these reports were the result of a long series of experiments on human beings. In other words, others, too, did not see so clearly as is pointed out here that these were human experiments.

Q. And you heard no rumors in the air force at all about these experiments, although there had been a large meeting at Nuernberg in October, with considerable comment there about these experiments? Holzloehner later gave a lecture before all the consulting physicians, at least those who attended the meeting on internal medicine where he spoke. He gave another report there on these experiments. You never heard any rumors in the air force about these things; is that right?

A. No.

Q. You never talked to Finke about these experiments, did you?

A. I have stated frequently that I don't even know Finke.

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EXTRACTS FROM THE TESTIMONY OF DEFENDANT SIEVERS*

DIRECT EXAMINATION

DR. WEISGERBER: During the subsequent period you came in contact with the cold experiments of Dr. Rascher?

DEFENDANT SIEVERS: I once went to Dachau in order to participate in administrative conferences at the time when Dr. Rascher, Professor

*Complete testimony is recorded in mimeographed transcript, 9, 10, 11, 14 April 1947, pp. 5656–5869.

Holzloehner, and Dr. Finke were concluding a cold experiment. That is to say, the experimental subject had just been placed into a room, but I didn't see anything else of this experiment.

Q. On the occasion of this experiment, or on the occasion of a discussion which perhaps followed, did you hear anything more in detail about Rascher concerning these experiments?

A. These three men were very busy reading the apparatus used in connection with that experiment. I was told that it was necessary to apply the warm covers as quickly as possible. Professor Holzloehner stated that they had almost concluded their experiments and that further experiments hardly seemed necessary. No scientific questions were discussed at that time.

Q. Did you see any report or did you receive reports from Rascher about these cold experiments?

A. No. These reports also went directly to Himmler from Rascher, as becomes evident from the documents which have been submitted here.

Q. In Document 1611–PS (*Pros. Ex. 85*), you find a letter sent by the Reich Leader SS to Dr. Rascher, dated 22 September 1942. In the second paragraph it states that it was sent to SS Obersturmbannfuehrer Sievers for information. Paragraph 1 mentions the interim report on the cold experiments by Dr. Rascher at the Dachau concentration camp. One could conclude therefrom that you received this interim report.

A. This interim report went directly from Rascher to Himmler, otherwise Himmler wouldn't have answered Rascher direct. I don't think, however, that it is out of the question that Rascher had told Hitler in this interim report, or in some other way, that when I heard of these cold experiments I considered them to be perverse. I assume that by sending me that report Himmler's opinion on that subject was to be transmitted to me, and that is why I received a copy of that letter for my information.

Q. Now, would you be good enough to turn over one page, and you will find there Dr. Rascher's letter dated 3 October 1942. (*NO–285, Pros. Ex. 86.*) This letter is obviously directed to Dr. Rudolf Brandt. It becomes evident from that letter that Rascher applied to you in a number of matters, is that correct?

A. Yes, I shall revert to that briefly, first of all concerning the low-pressure chamber. He says here that he turned to me in order to take steps regarding the low-pressure chamber. I didn't do anything about that, at least not on the basis of this request by Rascher, only later when Himmler arrived at Munich and when he himself ordered me to send him this draft letter which was previously discussed. He further says that he turned to me regarding a teletype which requested the furnishing of women for these experiments. Since Himmler had

already issued orders regarding the furnishing of experimental subjects, there was nothing left for me to do.

Q. Didn't you participate in a second cold experiment?

A. Yes, together with Dr. Hirt, whom I had to accompany by order of Himmler, as he had been included in Rascher's experiments with Himmler's approval. Himmler probably had realized in the meantime that Rascher alone would not be sufficient in order to clarify these scientifically very extensive and difficult questions. Hirt could only come to Munich for one day because of his state of health and for that reason asked that everything be prepared beforehand, so that he could gain insight into all the work results which had been obtained so far. I told Rascher to prepare everything according to Hirt's desire. A professional criminal was presented for the purpose of this experiment.

Q. Was that a professional criminal who had already been condemned to death, and how did you know whether it was such a criminal?

A. Before the experiment started Hirt wanted to look at the files because there was a possibility that this experiment would end fatally. The sentence was furnished by the Criminal Police Department of the Camp Administration. We saw that this was a sentence which had been passed by a regular court, and it became evident therefrom that this man had more than 10 years' penitentiary behind him, and had been recently sentenced to death because of murder and theft. Hirt furthermore asked the man whether he knew that this experiment might end fatally, whereupon the man answered that he was well aware of it. He said that he would have to die anyway for he was a confirmed criminal, and he just could not stop his criminal activity; therefore he deserved death.

Q. Did you convince yourself of that by asking the experimental subject whether he was actually a volunteer?

A. After Hirt's questioning I personally asked the man whether he agreed to that experiment. He thereupon said that he was in full agreement, providing it didn't hurt him. This assurance could be given to him because the experiment was carried out under complete anaesthesia. I didn't participate in the entire experiment, but I saw that this man was given an anaesthetic.

Q. You yourself saw the files from the criminal police?

A. Yes, I read through them, together with Hirt.

Q. Well, I guess there can be no doubt that this was a professional criminal sentenced to death by a regular court?

A. This was a very regular sentence. All previous sentences were listed in the files, and I remember in addition to the death sentence, he had already had 10 years' penitentiary.

* * * * * * *

Q. Now, would you please be good enough to turn to page 86 of the document book before you? This is a report about a so-called "Cold Conference" dated 26 and 27 October 1942. Did you receive this report in the Ahnenerbe?

A. I certainly didn't receive it and I don't remember having seen it anywhere.

Q. Didn't Curator Wuest receive that report?

A. I do not believe so. The scientific work in connection with Rascher, which only concerned Himmler personally, was always dealt with directly by Rascher and Himmler. These matters were only sent to Wuest if Himmler actually sent them himself. I don't believe that has happened in this particular case. At any rate, Wuest never told me anything about it. These reports and the research assignments just discussed lay completely outside the interests and sphere of Wuest.

Q. What do you know about the so-called dry-cold experiments of Dr. Rascher?

A. I only know about these experiments on the basis of Himmler's order which was sent by Himmler to Pohl and Grawitz because of the furnishing of the equipment. I don't know whether these experiments were actually carried out. At any rate, I only found out about that here in this courtroom. As a prerequisite for the execution Rascher said that it was necessary for them to be performed in the mountains. Himmler had also ordered that these experiments be carried out in the grounds of the mountain villa at Sudelfeld. I was to see to it that accommodation was available there. Investigations, however, proved that the terrain at Sudelfeld was not suitable for that purpose. At the same time I had heard that there were a sufficient number of cases of freezing to be found in hospitals at the front. I therefore asked Rascher why it was necessary for him to carry out any further experiments. He evaded my question and merely declared categorically that he would have to abide by Himmler's order.

Q. Which year was that?

A. That was at the end of 1942.

Q. The order was at the end of 1942?

A. The end of 1942. The conversation with Rascher about the accommodation took place afterwards.

Q. And that was intended for the winter of 1943–44?

A. No, for 1942–43. Since the terrain at Sudelfeld was not suitable, some other place had to be found and I handled this matter in a very dilatory manner. Rascher pressed me on the matter and Himmler was rather indignant, but after all I couldn't create a house by myself. Himmler subsequently ordered that preparations be made for these experiments to be carried out at least in the next winter. I think I made a mistake, I think it must have been the winter of 1943–44. I'm sure it was 1943–44, and I think that afterwards Himmler said that

preparations were to be made for 1944–45. These experiments, however, were never carried out because Rascher was already arrested in the spring of 1944.

Q. In that case you are saying that these dry-cold experiments were not carried out in the mountains in the winter of 1943–44. You assisted in preventing these experiments from being carried out by delaying the finding of suitable accommodation?

A. Yes.

Q. I will now briefly summarize your testimony with reference to the count concerning cold experiments.

MR. HARDY: If it please your Honor, the defense counsel has put questions to the witness and the witness has testified to these questions. I really think summations after each experiment are unnecessary here. That can take place in his closing statement.

PRESIDING JUDGE BEALS: A short summation on the part of defense counsel might be in order, as long as it does not contain too much repetition.

DR. WEISGERBER: Yes, your Honor. You accidentally attended the completion of a cold experiment by Dr. Rascher at Dachau. You had seen no reports about Dr. Rascher's experiments and received no knowledge about them in any other way. The furnishing of the experimental subjects for the rewarming experiments were not your business, and you actually had nothing to do with it. You attended a further experiment under the circumstances which you have previously described. You know nothing about any dry-cold experiments being carried out in Dachau itself. You succeeded in delaying and finally completely frustrating the dry-cold experiments in the mountains. Is that correct?

DEFENDANT SIEVERS: Yes, that is correct.

Q. After searching your mind, did you do anything in that connection which went beyond the orders given you by Himmler?

A. No, in no way at all.

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3. MALARIA EXPERIMENTS

a. Introduction

The defendants Karl Brandt, Handloser, Rostock, Gebhardt, Blome, Rudolf Brandt, Mrugowsky, Poppendick, and Sievers were charged with special responsibility for and participation in criminal conduct involving malaria experiments (par. 6 (C) of the indictment). Only the defendant Sievers was convicted on this charge. In the case of the defendant Mrugowsky the judgment of the Tribunal makes no special reference to this charge.

Although the defendant Rose was not charged with *special* responsibility for participation in malaria experiments, the prosecution offered proof to show some participation by Rose in these experiments. However, the Tribunal in its judgment refrained from making a finding of guilt or innocence as to Rose, since malaria experiments were particularized in paragraph 6 (C) of the indictment and since Rose was not among those defendants who were charged with special responsibility by name (judgment, vol. II). The Tribunal said that the manner of the prosecution's pleading "constituted, in effect, a bill of particulars and was, in essence, a declaration to the defendants upon which they were entitled to rely in preparing their defenses, [and] that only such persons as were actually named in the designated experiments would be called upon to defend against the specific items. Included in the list of names of those defendants specifically charged with responsibility for the malaria experiments the name of Rose does not appear. We think it would be manifestly unfair to the defendant to find him guilty of an offense with which the indictment affirmatively indicated he was not charged."

"This does not mean that the evidence adduced by the prosecution was inadmissible against the charges actually preferred against Rose. We think it had probative value as proof of the fact of Rose's knowledge of human experimentation upon concentration camp inmates."

The Tribunal did make findings of guilt or innocence with regard to several experiments which were not particularized in detail in the indictment and concerning which the indictment did not name any particular defendants as having special responsibility. For example, the prosecution introduced evidence concerning phlegmon, polygal and gas oedema experiments (*subsections 12–14, see pp. 653 to 694*) under the general charge of paragraph 6 of the indictment, which alleges that the criminal experiments "included, but were not limited to" the particularized experiments. (*See also introductions to subsection 12–14, see pp. 653–4, 669–70 and 684.*)

The prosecution's summation of the evidence on the malaria experiments is contained in its final briefs against the defendants Rose and Sievers. Extracts from these briefs are set forth below on pages 280 to 283. A corresponding summation of the evidence by the defense on these experiments has been selected from the closing briefs for the defendants Sievers and Rose. It appears below on pages 283 to 288. This argumentation is followed by selections from the evidence on pages 289 to 314.

b. Selections from the Argumentation of the Prosecution

EXTRACT FROM THE CLOSING BRIEF AGAINST DEFENDANT ROSE

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With respect to the malaria experiments, two questions are presented for consideration: first, whether the malaria experiments were performed in a criminal manner, and second, whether the defendant Rose was connected with such experiments.

That the performance of the malaria experiments in the Dachau concentration camp from February 1942 until the end of the war was criminal has not been seriously disputed by any of the defendants. In December 1941, while working in Italy, Dr. Claus Schilling met Conti who became interested in supporting further work by Schilling on malaria problems. A meeting was arranged with Himmler who gave his permission for experiments to be carried out in the Dachau concentration camp. Schilling began his work in Dachau in February 1942 and continued his experiments until the end of the war. He was primarily concerned with discovering a way of immunizing persons against malaria. During the course of the experiments, approximately 1,200 concentration camp inmates were infected with malaria either by being bitten by infected mosquitoes or by injections of malaria-infected blood. After having been infected, the prisoners were treated with various drugs, including quinine, neosalvarsan, and pyramidon. Most of the experimental subjects were non-German nationals. Of the experimental subjects infected, approximately 30 died as a direct result of the experiments and an additional 300 to 400 died as a result of complications.

The above facts are established by the Review of the General Military Commission in the case of the U. S. against Weiss and others, held at Dachau, Germany. (*NO–856, Pros. Ex. 125.*) Claus Schilling was a defendant in that case and was convicted and sentenced to death. In an affidavit submitted in evidence before that Tribunal, dated 30 October 1945, Schilling admitted that the experimental subjects were not volunteers.

One of the assistants to Schilling in his experiments at Dachau was Dr. Ploetner, who was a member of the Institute for Military Scientific Research of the Ahnenerbe under the defendant Sievers. Sievers conferred with Ploetner regarding the malaria experiments and received reports from him. (*3546–PS, Pros. Ex. 123; entries for 30 January, 22 February, 23 May, 31 May, 1 June, 24 August.*) Rose stated that he learned that Ploetner was a collaborator of Schilling through an inquiry to the Journal of Tropical Medicine in the year 1944. Ploetner had published an article in that magazine and it had come to Rose's attention. (*Tr. 6339.*)

The witness August Vieweg testified for the prosecution and substantiated the findings of the Military Commission at Dachau. Vieweg was first subjected to the malaria experiments himself and thereafter served as an inmate-assistant in the malaria ward. Vieweg testified that Schilling experimented on approximately 1,100 inmates, including Germans, Poles, Russians, and Jugoslavs. Among the Russian inmates used were prisoners of war. Seven or eight of the subjects died in the malaria station, primarily as a result of pyramidon poisoning. (*Tr. p. 428.*) He also testified that to his knowledge, an additional 60 inmates died after having been transferred from the experimental station. He further stated that none of the inmates volunteered, that he personally did not, and that the experimental subjects were not freed as a result of undergoing the experiment. The original infection card from the files of Schilling in Dachau, showing the date of infection of the witness Vieweg with "Culture Rose," was introduced. (*NO–983, Pros. Ex. 128; see also Tr. pp. 584–5.*)

The defendant Rose participated in the criminal experiments of Schilling by furnishing him material with which to carry out the experiments. This material was furnished by Rose with knowledge of facts which would have led any reasonable man to the conclusion that Schilling was carrying out criminal experiments. Rose had known Schilling for many years and succeeded him as Chief of the Department for Tropical Medicine in the Robert Koch Institute. Moreover, Rose, by his own admission, was an adviser to Dr. Conti, who arranged for Schilling to carry out his experiments in Dachau. It is highly unlikely that such an arrangement would have been made without consulting Rose.

Rose furnished Schilling with malaria spleens for his experiments in Italy during the year 1941, a fact which Rose denied on the stand until contradicted by his letter to Schilling, dated 3 February 1941. (*NO–1756, Pros. Ex. 486.*) Rose continued to furnish infection material to Schilling after he set up his experimental station in Dachau. Rose and his witnesses admitted that anopheles eggs were sent to Schilling in 1942, but Rose, after that occasion, issued instructions that no more material was to be sent to Schilling because he did not agree with his research aims. (*Tr. p. 6415.*) On 4 April 1942, Schilling wrote to Rose asking for "Culture Rose" to continue his experiments. This letter bears the dateline "Dachau, 3K, Hospital for Inmates," and it was initialed by Rose on 17 April 1942. Schilling stated that he would be "very thankful * * * for this *new* support of my work." [Emphasis supplied.] That Rose complied with this request of Schilling's is established because the witness Vieweg was himself infected with "Culture Rose."

On 5 July 1943, in a letter, also with the notation "Dachau, K3, Malaria Station," Schilling thanked Rose for a consignment of atro-

parvus eggs and accepted Rose's offer to send him his excess eggs. This letter mentions the "Prisoner August," who obviously was the witness, August Vieweg. This letter was initialed by Rose on 27 July. (*NO–1753, Pros. Ex. 488.*) On the same date Rose replied to Schilling's letter, advising him that at the next favorable opportunity, a shipment of anopheles eggs would be made to him.

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EXTRACT FROM THE CLOSING BRIEF AGAINST DEFENDANT SIEVERS

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Sievers had knowledge of and supported the criminal malaria experiments in Dachau. He testified that early in 1942 he learned from Himmler that Schilling was conducting malaria experiments in Dachau. (*Tr. p. 5692.*) In a memorandum dated 3 April 1942 concerning a consultation between Sievers and Dr. May on the location of an experimental station for the Ahnenerbe, Sievers mentioned as a persuasive reason for locating in Dachau the fact that Schilling was carrying out his malaria experiments there. (*NO–721, Pros. Ex. 126.*) Although this memorandum gives the name as "Schling", Sievers testified that the name Schilling was intended. (*Tr. p. 5693.*)

The witness Vieweg testified that in late 1943 or early 1944 Sievers made several visits to Schilling's malaria station where he consulted with Ploetner, who was a collaborator of Schilling's. (*Tr. pp. 445–7, 464.*) He stated that Sievers consulted with Schilling and also inspected the laboratory. (*Tr. p. 423.*) Sievers testified that the purpose of these visits and consultations was to arrange for the transfer of Ploetner to the Institute for Military Scientific Research of the Ahnenerbe.

A number of entries in the Sievers diary for 1944 prove that Sievers was connected with and supported the malaria experiments. On 30 January he received a memorandum by Ploetner on malaria. A notation of 22 February states that "further work in the matter of SS Hauptsturmfuehrer Dr. Ploetner to be done through RGF [Reichsgesundheitsfuehrer Conti]." Ploetner, in addition to his work with Schilling, was also collaborating with Rascher in the blood coagulation experiments. (See entries of 29 January and 14 April.) On 10 May 1944, the entry indicates that Rascher's research work was transferred to Ploetner. This was apparently a result of Rascher's difficulties in connection with the kidnapping of children by him and his wife. On 23 May 1944, Ploetner was charged with the management of the Ahnenerbe division in Dachau. The entry for 31 May indicates that Sievers and Grawitz reached an understanding concerning Ploetner's continued collaboration with Schilling. On 21 June, Sievers conferred with Schilling about limiting Ploetner's ac-

tivities with him after his transfer to the Ahnenerbe. Ploetner was actually appointed department head in the Institute for Military Scientific Research of the Ahnenerbe on 27 June. The entry for 24 August 1944 notes that collaboration between Schilling and Ploetner had been agreed upon. (*3546–PS, Pros. Ex. 123.*)

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c. Selections from the Argumentation of the Defense

EXTRACT FROM THE CLOSING BRIEF FOR DEFENDANT SIEVERS

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Malaria Experiments

1. Under the direction of Professor Dr. Schilling, malaria experiments were carried out in Dachau concentration camp in the years 1941–1944.

2. According to the statements in the verdict of the United States Military Court at Dachau of 26 January 1946 (*NO–856, Pros. Ex. 125*) a great number of people were killed in these experiments.

3. Sievers had not the slightest connection with either Professor Schilling's malaria experiments or with any other malaria experiments.

The prosecution charges Sievers with participation in malaria experiments.

> "As can be seen in all spheres of this devilish experiment program in Nazi Germany, the defendants charged with the malaria experiments had on their side an extensive knowledge of Schilling's activity. In some cases they worked actively with the late Dr. Schilling". (*Tr. pp. 403–4.*)

For proof, the prosecution refers to NO–721, Prosecution Exhibit 126.

Regarding 3546–PS, Prosecution Exhibit 123, Sievers' diary 1944, entries of 22 February 1944 and 31 May 1944, the prosecution states:

> "From this document it can be seen that on or about 1 April 1942 Wolfram Sievers had knowledge of Dr. Schilling's activity in Dachau. This letter represents a proposal for planned further experiments and clearly shows that the distinguished Wolfram Sievers in his capacity as Reich Business Manager of Ahnenerbe had a finger in all these matters."

The defense has proved:

Sievers stated in his cross-examination that the affairs which he discussed with Dr. May on 1 April 1942 in Munich had nothing whatsoever to do with malaria experiments. Sievers paid a social visit to Dr. Schilling in Dachau in the middle of the year 1944 in order to get Dr. Ploetner released for the manufacture of pectin. (*Cross-*

examination of Sievers, German Tr. pp. 5692–93.) Neither Sievers nor the Ahnenerbe nor the Institute for Military Scientific Research [Institut fuer Wehrwissenschaftliche Zweckforschung] had anything to do with malaria experiments. (*Cross-examination of Sievers, German Tr. p. 5693; Statement of the witness Dr. May, German Tr. p. 5877.*) Neither can there be proved from Point four of the memorandum of 1 April 1942 (*NO–721, Pros. Ex. 126*) any connection of Sievers with the malaria experiments.

An affidavit of the secretary Hildegard Wolff relates how the memorandum of 1 April 1942 and the drawing up of Point four came about. She took down and typed the memorandum from Sievers' dictation. (*Sievers 11, Sievers Ex. 8.*) According to this, Sievers, in the very hurried dictation, said Frau Wolff should write down as Point four what Himmler had said in his telephone conversation about the erection of the institute in Dachau. Therefore, not Sievers' but Himmler's opinion is stated here.

Through the discussion of 1 April 1942 between Sievers and Dr. May it had been made completely clear that human experiments within the framework of the research order to Dr. May were absolutely out of the question, not only for the reason that such experiments would have been rejected on principle, but also because human experiments had nothing whatsoever to do with the task of developing an insecticide for insects harmful to human beings. Moreover, no other kind of human experiment was carried out in connection with Dr. May's work. The witness, Dr. May, testified concerning Sievers' diary entry of 22 February 1944 that there never existed any cooperation between Dr. May, Dr. Ploetner, and Dr. Schilling. (*Witness Dr. May, German Tr. p. 5878.*)

That, however, would have been a necessary condition in order to classify Sievers' administrative activity in this connection as participation.

As to points four, five, six, seven, there is no occasion for statements concerning these points.

Summary

Since Sievers took no part in the malaria experiments of Professor Schilling at Dachau or any other malaria experiments, he is not guilty of a crime. Thus any special responsibility and participation in malaria experiments is excluded.

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EXTRACT FROM THE CLOSING BRIEF FOR DEFENDANT ROSE

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Statements Concerning the Question of Responsibility of the Defendant Rose for the Malaria Experiments Carried Out by Professor Claus Schilling at the Concentration Camp Dachau and Concerning the Question of Rose's Participation in These Experiments

In the indictment, Professor Rose is not charged with special responsibility for the malaria experiments carried out by Professor Schilling at the Dachau concentration camp or with participation. The defendant Rose is also not mentioned in Document Book No. 4 of the prosecution which deals with these malaria experiments. In the course of the verbal proceedings in the court, the prosecution has, however, preferred charges against Professor Rose to this effect and introduced several new documents in the trial during the cross-examination of defendant Rose (*NO–1752, Pros. Ex. 487; NO–1753, Pros. Ex. 488; NO–1755, Pros. Ex. 489; NO–1756, Pros. Ex. 486*) and also heard the witness Vieweg concerning this question. (*German Tr., 13 Dec. 46, pp. 464–516.*)

This evidence shows that among others also the Department for Tropical Diseases of the Robert Koch Institute in Berlin, under the direction of the defendant Rose, sent anopheles eggs and malaria cultures on a few occasions to Professor Schilling at Dachau during the years 1942 to 1943. At this juncture it should be mentioned that it is completely immaterial for the judgment of the case what the name of the culture of malaria tertiana was and whether or not its name was first changed by Schilling to "Culture Rose". The above-mentioned evidence also shows that Professor Schilling told Professor Rose in two of his letters about his breeding of mosquitoes; finally it also shows that Professor Schilling asked the defendant Rose from Italy to procure for him spleens of persons whose death had been caused by malaria. This was in 1941, at a time when Schilling was not yet working in Dachau. According to the testimony given by the defendant Rose during cross-examination (*Tr. pp. 6412–3*), he evidently complied with Schilling's request.

The Tribunal will have to decide whether these above-mentioned activities of the Department for Tropical Diseases of the Robert Koch Institute under the management of the defendant Rose or his own activities, constitute, within the meaning of the Penal Code, participation on the part of the defendant Rose in the deeds of Professor Schilling. In my opinion this decision can only be a negative one, for the following reasons:

The delivery of material necessary for malaria research such as anopheles eggs and malaria cultures was one of the official duties of the

Department for Tropical Diseases of the Robert Koch Institute. (*Rose 11, Rose Ex. 27.*) This department had a section which dealt exclusively with these matters. This can be seen from both the yearly reports of the Robert Koch Institute and from the report covering the Third Conference East of Consulting Specialists discussing work-projects. (*Rose 38, Rose Ex. 10; Rose 10, Rose Ex. 26; Rose 12, Rose Ex. 28.*) Deliveries of this kind are internationally common practice and were never denied by the defendant Rose. It is also common practice to use the organs of human corpses for the carrying out of scientific research. (*Tr. p. 6474; Rose 51, Rose Ex. 50.*)

The prerequisites for such deliveries are that they are requested either by well-known institutes or by renowned research scientists. It cannot be denied that Schilling, a coworker of Robert Koch and a member of the malaria commission of the League of Nations, was famous as a malaria research scientist. In a case of this kind, the non-delivery of such material would have been an express violation of traditional practice and of official duty. It is also not international usage for the orderer to be questioned about the intended use of the material before its delivery. (*Compare Mrugowsky 4a, Mrugowsky Ex. 96; Rose 49, Rose Ex. 48; German Tr., 19 June 47, p. 9680.*) Even if Professor Rose declared, in the witness box during examination on his own behalf, that he assumes full responsibility for it, it should be mentioned here that such deliveries are carried out in such a routine way that the chief of the institute often knows nothing about it since these matters are dispatched independently by the personnel employed by him in the laboratory. This also was the procedure in the case in question as the evidence shows unequivocally. (*Rose 35, Rose Ex 32; German Tr., 16 Dec. 46, p. 507; Tr. pp. 6020, 6352.*) Thus, it is by no means surprising that the defendant Rose could no longer remember the correspondence with Professor Schilling put before him by the prosecution during cross-examination especially since undoubtedly it often happens that, as in the case in question, although the letters are sent by the orderer to the head of such an institute personally, the dispatching of the order is nevertheless carried out independently by the personnel of the institute.

Besides, the delivery of these materials by the Department for Tropical Diseases of the Robert Koch Institute to Professor Schilling was by no means a prerequisite for the carrying out of his experiments in Dachau, since it has already been established that Schilling obtained no less than 12 other malaria cultures from other institutes. (*NO-1752, Pros. Ex. 487; German Tr., 16 Dec. 46, p. 509.*) Professor Schilling also obtained mosquitoes from other institutes. (*German Tr., 16 Dec. 46, p. 507.*) Naturally these institutes could also not have had any scruples about sending material to Professor Schilling. In addition to this, Professor Schilling personally maintained a group of

people to catch mosquitoes. (*German Tr., 16 Dec. 46, p. 508.*) If Professor Schilling turned at all to the Robert Koch Institute in this matter, the main reason for doing so was that for decades he himself had been the head of the Department for Tropical Diseases of the Institute and that personnel were still working there who had formerly already been employed under his management.

The defendant Rose did, as a matter of fact, oppose Schilling's scientific approach to the problem as may clearly be seen from his opinion on Schilling for the Reich Ministry of the Interior (*Tr. p. 6021*) and from his lecture in Basel. (*Rose 25, Rose Ex. 31.*) However, to judge by Professor Schilling's personality and past he could, nevertheless, not conceive the idea that Professor Schilling's work at Dachau could be anything but completely above reproach. Experiments on human beings in malaria research are first of all, a matter of course and common practice. Even if the defendant Rose always limited his own work to the traditional evaluation of therapeutic malaria infections, experiments on prisoners in this field must unquestionably be permissible from an ethical point of view, as can be proved by the malaria experiments on many hundreds of prisoners in American prisons. (*Karl Brandt 1, Karl Brandt Ex. 1; Karl Brandt 117, Karl Brandt Ex. 103; Mrugowsky 80, Mrugowsky Ex. 76; Rose 50, Rose Ex. 49.*) Apart from the fact that the delivery of material to Schilling by no means obliged him to inform himself about the latter's research work and its ways and means, Rose really had no knowledge whatsoever of the object of the research carried out by Schilling, and did not know the collaborators of the latter. (*Rose 29, Rose Ex. 34; Rose 30, Rose Ex. 33.*) Much less was he informed about the conditions under which Schilling was working in Dachau.

The defendant Rose himself is a well-known malaria research scientist. Malaria research was the main study of his department at the Robert Koch Institute in Berlin and also later in Pfaffenrode. Professor Schilling only worked with malaria tertiana (benign tertian) in Dachau. (*NO–1752, Pros. Ex. 487.*) Professor Rose, as an experienced malaria research scientist, knew of course that this form of malaria is not a dangerous one and that no complications are to be expected from it. (*Rose 50, Rose Ex. 49.*) The witness Vieweg (*Tr. pp. 457–458*) also expressly stated that none of the prisoners died of malaria, but that the cause of death could be traced back to technical errors [Kunstfehler] or to complications, as, for example, faulty puncture of the liver resulting in hemorrhage due to omission of an operation and an overdose of pyramidon in therapy, outbreak of typhus among the experimental subjects and finally, wrong doses in the treatment with salvarsan. Just in passing it should also be mentioned here that the defendant Rose also opposed this last-mentioned method of treatment. This method was prohibited in the German Luftwaffe at his suggestion. (*NO–922, Pros. Ex. 435.*)

No further explanation is necessary to show that solely the person carrying out the experiments is responsible for technical errors and negligence in the process. It seems to me that not even his superiors who ordered the work, namely Himmler and Grawitz, were responsible for them. However, a person assigned to supervise these experiments would have been obliged to take action whenever he was informed of such technical errors or negligence. The defendant Rose, however, was neither assigned to supervise nor was he informed of these matters. It is also unfair to assume that he knew about these matters, because he happened to take part in the conference on freezing experiments which took place in Nuernberg in October 1942. Firstly, the freezing experiments carried out by Professor Holzloehner, although also taking place on Dachau, were in no way connected with the malaria experiments carried out by Professor Schilling. Furthermore, the participants of the conference were misinformed about the method employed in these experiments and about the status of the experimental subjects. (*Handloser 37*, *Handloser Ex. 18; German Tr., 12 Dec. 46, p. 315.*)

Now, to be sure, it is known that Holzloehner's, Rascher's, and Finke's freezing experiments were carried out in Dachau. That, however, was certainly not made public at the above-mentioned Nuernberg conference. Even if one of the participants suspected that experiments at a concentration camp were concerned, he would not have had the slightest reason to suppose that the concentration camp in question was Dachau.

Schilling's reports about his work were always sent to Himmler or Grawitz but never went any further. That also explains why no reports about Schilling's experiments were found in the confiscated files of the defendant Rose. (*Tr. pp. 5566, 6021; German Tr., 13 Dec. 46, pp. 466–7; German Tr., 26 Mar. 47, p. 5106; German Tr., 2 Apr. 47, pp. 5420–1.*)

Rose personally was the prototype of a worker above reproach in the field of malaria research and with regard to his care for the well-being of his malaria patients (*Rose 47*, *Rose Ex. 35*), as shown by the investigation undertaken by the competent American authorities. He risked his own life (*Rose 8*, *Rose Ex. 29*) in order to assure the orderly handing-over of his Malaria Research Institute in Pfaffenrode to the Americans—in contrast to Dachau, without burning files and the like, and also to insure continued regular care and medical treatment for his patients. (*Rose 31*, *Rose Ex. 36; Rose 32*, *Rose Ex. 37; Rose 33*, *Rose Ex. 38; Rose 34*, *Rose Ex. 39.*) It would be completely incomprehensible if such a man were to be made responsible for the technical errors and negligence of another who was not even under his influence.

d. Evidence

Prosecution Documents

Doc. No.	Pros. Ex. No.	Description of Document	Page
NO–856	125	Extracts from the review of the proceedings of the general military court in the case of the United States vs. Weiss, Ruppert, et al., held at Dachau, Germany.	28

Defense Documents

Doc. No.	Def. Ex. No.	Description of Document	Page
Rose Document 11	Rose Ex. 27	Extracts from report of Professor Dr. E. Gildemeister concerning the activities of the Robert Koch Institute—Reich institute for the fight against infectious diseases.	298
Rose Document 47	Rose Ex. 35	Affidavit of Professor Dr. Hans Luxenburger, 24 March 1947, concerning Rose's interest in therapeutical malaria treatments.	300
Rose Document 50	Rose Ex. 49	Extract from the affidavit of Professor Dr. Ernst Georg Nauck, M. D., Hamburg 4, Bernhard-Nocht-Institute for nautical and tropical diseases.	302

Testimony

Extracts from the testimony of prosecution witness August H. Vieweg--- 303
Extracts from the testimony of defendant Rose---------- 308

PARTIAL TRANSLATION OF DOCUMENT NO–856 PROSECUTION EXHIBIT 125

EXTRACTS FROM THE REVIEW OF THE PROCEEDINGS OF THE GENERAL MILITARY COURT IN THE CASE OF THE UNITED STATES *VS.* WEISS, RUPPERT, ET AL., HELD AT DACHAU, GERMANY

* * * * * * *

A series of experiments concerning the treatment of malaria were conducted under the supervision of the accused, Dr. Schilling (*R 157*).* Three hundred to four hundred persons died as a result (*R 204, 206*). The facts elicited with respect to these experiments are set out in detail *infra* in connection with Dr. Schilling.

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*All "R" references in Document NO–856 are to pages of the Record of the case of the United States *vs.* Weiss, Ruppert, et al.

B. The common design at the Kaufering Branch Camps of Dachau

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C. The Individual Defendants

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15. *Dr. Claus Karl Schilling.* A special experimental station had been set aside in the hospital for the performance of malaria experiments under the supervision of the accused Dr. Schilling (*R 191, 157, 482*). Schilling performed his research for the purpose of determining immunization for and treatment of malaria (*R 192*). Requests for prisoners were made by Schilling (*R 159–160*). One such request which was admitted into evidence, stated that Polish prisoners were requested (*R 160, Pros. Ex. 38*).* A list of inmates was prepared in the camp physician's office, the inmates being of all nationalities which were represented in the camp, and was sent to the labor office which made a copy of the list (*R 284, 285, 287, Pros. Ex. 47, 48, 157*). There the list was confirmed by the Schutzhaftlagerfuehrer who sometimes made a few changes in the list (*R 285*). These lists appeared about once every month since about 1943 (*R 285*). None of the 1,200 selectees ever consented or volunteered (*R 160–161*). Priests were often selected for these experiments (*R 356, 353*). An inmate, a priest named Father Koch, related his experience in that connection (*R 356*). He was first X-rayed and then sent to the malaria station (*R 356–357, 353, 215*). He was put into a little room where he received a box with mosquitoes which he had to hold in his hands for about half an hour (*R 358*). That occurred every day for one week (*R 358, 363*). Every afternoon another box of mosquitoes was put in between his legs while he was in bed (*R 358, 363*). Each morning a blood smear was taken from his ear and his temperature was measured each day and night (*R 358, 364*). He was given quinine (*R 358, 364*). In about 17 days he left the hospital (*R 359, 364*). After being released from the hospital he had to report back every Saturday (*R 360, 364*). Eight months later he had an attack of malaria, which recurred precisely every 3 weeks for 6 months (*R 359, 363, 364, 365*). The symptoms he felt were high fever, chills, and pains in the joints (*R 359*). Koch did not volunteer for the experiments nor did the other prisoners who were mostly Poles and Russians, who underwent the treatment with him (*R 356, 362*).

The prisoners were infected with malaria by the injections of the mosquitoes themselves or the injections of extracts of the mucous glands of the mosquitoes (*R 157*). After having contracted malaria the prisoners were treated in different ways (*R 157*). Some, as Father Koch, were given quinine (*R 358*). Others were given neo-

*"Pros. Ex." references in this document are to prosecution exhibits in the case of the United States *vs.* Weiss, Ruppert, et al.

salvarsan, pyramidon, antipyrin, a drug numbered 92516, and several combinations of these (*R 157*). Some people died as a result of these experiments (*R 158*). Schilling was present when autopsies were performed on some of those persons (*R 158*). Whenever anyone died who had been injected with malaria, a report of that death was made to the accused Schilling and the chief doctor (*R 158*). Some of the victims died from the intoxication of neosalvarsan and pyramidon, for many individuals could not withstand large doses of these drugs (*R 159*). From the autopsy it could be determined that a patient died of neosalvarsan since the reactions were similar to arsenic (*R 193, 194*). In the beginning of 1944 three deaths resulted from the use of pyramidon (*R 194*). These people were brought directly from the malaria ward to the autopsy room (*R 197*). Two young Russian boys who were transferred from the malaria ward to the general medical ward died within a day after their arrival because of overdoses of pyramidon (*R 394–395, 405*). They had been sent to the general ward so that the official cause of death which would be stated would not be malaria (*R 405*). Pyramidon has a toxic on the blood corpuscles which causes them to disintegrate (*R 195*). Malaria was the direct cause of 30 deaths and as a result of complications, 300 to 400 more died (*R 196, 197*). People who had died directly from malaria had come straight from the malaria ward while the 300 to 400 others had undergone the malaria experiment (*R 204*). These people who had been subjected to malaria may later have died of tuberculosis, pneumonia, or dysentery (*R 196*). Some of the patients whom Dr. Schilling used had had tuberculosis before undergoing the experiments (*R 11*). Fever type diseases have adverse effects on tuberculosis (*R 211*). An index of the malaria diseased people was kept in the hospital office (*R 198*).

Schilling received various visitors such as Dr. Rabbit, who was a Reich SS physician at Oranienberg (*R 192*).

A pretrial affidavit of the accused Schilling executed in his own handwriting on 30 October 1945 before 2d Lieutenant Werner Conn was admitted into evidence (*R 827, Pros. Ex. 122*). This statement reads in pertinent part and in translation as follows:

"My name is Professor Dr. Claus Schilling. I have already worked on tropical diseases for 45 years. I came to the experimental station in Dachau in February 1942. I judge that I inoculated between 900 and 1,000 prisoners. Those were mostly inoculations for protection. These people, however, were not volunteers. The inmates whom I gave protective inoculations were not examined by me but by the current camp doctor. Before the inoculation there was usually an observation of several days. The last camp doctor was Dr. Hintermayer. As well as I can remember, in 3 years there were 49 patients who died outside

the malaria station. The patients were always released by me as cured only after 1 year.

"As remedy I used quinine, atabrine, and neosalvarsan. I know for sure of six cases where I used pyramidon tablets to hold down the fever (*Pros. Ex. 122*)."

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V. Evidence for the Defense.

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15. *Doctor Claus Karl Schilling*

The accused Doctor Schilling elected to testify and made the following unsworn statement: He was 74 years old, married, had one son, and was a physician. He had specialized in tropical diseases, particularly malaria, since 1898 (*R 1490*, *1500*). Dr. Schilling studied under Professor Koch of Berlin, and graduated from Munich as a physician in 1894 (*R 1894*). He did research work in Africa on malaria, sleeping sickness, and tsetse fly diseases (*R 1497*, *1498*). Dr. Schilling worked for the Rockefeller Foundation in Berlin, receiving a grant in 1911 for the study of various diseases and for a trip to Rome (*R 1499*, *1500*, *Def. Ex. 19*).* In December 1941 in Italy Dr. Schilling met Dr. Conti, the Reich physician leader, who invited him to see Himmler (*R 1500*, *1501*, *1508*). Schilling went to Himmler who gave him the order to continue his studies at Dachau (*R 1502*). Schilling had selected Dachau because it was near his birthplace (*R 1568–1569*). The question of using prisoners for experiments was not discussed (*R 1502*). In January 1942, Schilling went to Dachau (*R 1502*). Schilling only accepted this commission at Dachau because the League of Nations, of which he was a member, told him of the importance of curing the seventeen million known cases of malaria. He believed it was his duty to humanity (*R 1540*). He never became a member of the SS or the Nazi Party (*R 1503*). He was a "free, independent, research man." (*R 1568.*)

Dr. Schilling infected thousands of prisoners with malaria "Benign Tertian" which is not fatal (*R 1503*). The purpose for this was to find a vaccination against malaria and today there is no vaccination against malaria except the one discovered by Schilling (*R 1503*). Dr. Schilling used mosquitoes and blood transfusions to infect the patients and received patients already infected (*R 1503*, *1504*). The patients were divided into groups and were constantly watched, one group for the purpose of keeping up the strain and another for immunization purposes (*R 1505–1506*). The latter were injected repeatedly to step up their immunity (*R 1506*). Schilling re-infected about 400 to 500 patients and used quinine, atabrine, and neosalvarsan, and a

*"Def. Ex." references in this document are to defense exhibits in the case of the United States *vs.* Weiss, Ruppert, et al.

dye No. 2516 which made the patients immune; to prove this he had to test by infecting them again (*R 1507*).

Dr. Schilling could not work with animals because they are not receptive to malaria and men are used throughout the world (*R 1507*). He assumed that Admiral Stipp and Mark Boyd, two malaria authorities, used humans in their experiments (*R 1508*). Infected malaria has been used to cure paralysis (*R 1508*).

Only about four or five of the patients refused to be immunized, but they consented after Schilling explained the importance of the work (*R 1509*). The selections of the patients were made as follows: Berlin allowed him thirty patients a month and he would requisition them through the camp physician from the commandant who contacted the labor leader (*R 1510*). The latter selected healthy prisoners and Schilling's assistants chose the final names and sent them to Berlin, where the selection was approved (*R 1509, 1510*). These patients were carefully inspected and could not be refused by Schilling by order of Himmler (*R 1511*).

The doses of neosalvarsan were 1.54 grams and at no time failed (*R 1512*). He used pyramidon to lower the body temperature although the drug has a bad effect on the blood corpuscles (*R 1513, 1514*). He used this drug only in 15 cases and found that two grams were not harmful. This was important so the body could react without fever (*R 1515*). Nobody died from pyramidon (*R 1515*). Malaria has been used to cure syphilis and neosalvarsan can destroy parasites in a fever (*R 1515*).

Dr. Schilling never dealt with Dr. Blaha on any autopsies involving neosalvarsan poisoning. Discharged patients were told to report back if they felt sick (*R 1516*). Periodic checks were made of them and any patient was received back if there was sign of relapse (*R 1517*). If Schilling was asked to resume his work, he would do so only on volunteers (*R 1518*).

Dr. Schilling was withdrawn as a witness, at this point, but resumed the stand later and testified as follows: In death through neosalvarsan all organs are affected (*R 1536*). Blood cells may die, but nothing like this happened in his cases (*R 1536, 1537*). It is impossible to determine death by malaria by a mere autopsy without a microscope, especially where there may be other complications (*R 1537*). Pyramidon is rarely the cause of death (*R 1537*).

Out of the 100 people infected by Dr. Schilling with malaria, not a single one of them died of uncomplicated malaria (*R 1538*).

Weight of the patients during experiments increased. Additional food was given and people suffering from contagious disease would be isolated (*R 1539*). Dr. Schilling never stated the wrong cause of death (*R 1539*).

Dr. Schilling stated he couldn't experiment on himself because he had had malaria in 1933 and men like him cannot be reinfected in most cases although malaria is a recurring disease (*R 1541*). If there is chronic malaria, the heart muscles will suffer as in all chronic diseases (*R 1543*). Malaria will increase the watery substance in the blood and the brain will suffer under chronic malaria (*R 1544*). Chronic malaria will weaken the body to make it susceptible to other diseases and one may die of another disease while having malaria (*R 1546*). Schilling had SS doctors helping him and examined all patients personally and supervised the records (*R 1546*). Schilling recognized Prosecution Exhibit 131 which stated that 19 cases were treated with pyramidon, three of whom died (*R 1547*). He declared these patients were suffering from typhus and were removed from the ward (*R 1547, 1548*).

Although there was a typhus epidemic in November 1944 and he knew that people were dying, he continued his experiments (*R 1550*). Everyone who was inoculated remained at the station (*R 1550*). One patient was injected three times and later died of typhus (*R 1551*). He was given neosalvarsan, atabrine, and quinine. Pyramidon doses of three grams per day for five successive days were given. Dr. Blaha did not inform Schilling of the deaths due to pyramidon poisoning. If Schilling had been notified he would have stopped the experiment. An Italian named Calveroni was infected with blood and might have gotten typhus (*R 1556*).

If a man is suffering from malnutrition, a big dose of neosalvarsan is not advisable (*R 1557*). If it would save his life, Schilling would give it to him (*R 1557*). It depended on the physical condition of the man and of what he was suffering; yet, Schilling gave the drug to Father Wicki who only weighed 50 kilos (*R 1558*), but Schilling says that Wicki was not a severe case (*R 1559*). Schilling gave 3 grams of neosalvarsan in 5 days, which was the largest dose he ever gave over that period of time. He does not remember giving drugs to sufferers of dysentery (*R 1562*).

Schilling did not remember specific cases where he did not use caution (*R 1566, 1567*). He recalled the priest Stachowski who died, but doesn't remember he died from neosalvarsan (*R 1567, 1568*).

Dr. Schilling was not under the control of the SS (*R 1568*). He heard rumors about beatings, but did not concern himself with "things that were not my business" (*R 1569*). All his records had been burned (*R 1570*). Schilling denied all accusations against him other than what he admitted as part of his duty (*R 1572, 1573*). He declared that his work was unfinished and that the court should do what it could to help him finish his experiments for the benefit of science and to rehabilitate himself (*R 1574*).

Mrs. Hubner, who knew Professor Schilling for 30 years, stated that she often saw him in Italy and in Germany and has known him to be of good reputation and of good veracity (*R 1519, 1520, 1521*). He told her his only aim was to help cure malaria (*R 1522*). She believed his intentions at Dachau were good (*R 1523*).

Frau Durck, the wife of a university professor of anatomical pathology who was interested in malaria research, knew Professor Schilling since 1924 (*R 1525, 1526*). Schilling was always regarded in his field as a serious scientist (*R 1527*). She knew what he was doing at Dachau but her husband would not have done it (*R 1527*).

Dr. Eisenberger, a lawyer for 52 years, knew Dr. Schilling for 30 years (*R 1527*). He considered Schilling highly respectable and reliable, and said Schilling was seeking to benefit science and would never do anything wrong (*R 1528*).

Heinrich Stoehr, a male nurse at Dachau, testified it was known that Schilling worked on orders from Himmler (*R 1608, 1609*). The camp physician's and Schilling's assistants examined the patients prior to experimentation (*R 1609*). Dr. Brachtel, an SS doctor and assistant to Schilling, also performed atabrine experiments (*R 1610*). If a patient had a relapse from malaria, he was treated by Dr. Schilling (*R 1611, 1612*). Others were given quinine by some of the hospital staff (*R 1611, 1612*).

Max Kronenfelder worked in the malaria station under Schilling from February 1941 to June 1943 (*R 1614*). He knew about a Dr. Brachtel, who also made private experiments on malaria without the knowledge of Dr. Schilling (*R 1615*). Kronenfelder took blood smears and performed minor details such as cleaning up (*R 1616*). Brachtel experimented with patients who had tuberculosis, helped by a man named Adam (*R 1617*). Adam was often in the morgue with Dr. Blaha (*R 1618*).

Father Rupieper had been subjected to the malaria experiment in August 1942 (*R 921*). Other priests who were also subjected were Peter Bower, Gustav Spitzick, Amon Burckhardt, Fritz Keller, and Kasinemer Gasimer Rikofsky (*R 921*).

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VI. Prosecution Rebuttal Evidence.

Common Design.

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15. *Dr. Claus Karl Schilling.* When one of Dr. Schilling's patients died there were orders to report that fact to the malaria station even though the man had died in another section of the hospital (*R 1712*). Toward the end of 1942 Professor Schilling was personally present at the autopsy of a man who died of neosalvarsan and he requested the

brain, liver, kidneys, spleen, and a piece of stomach (*R 1712, 1731*). In that case Dr. Schilling dictated part of the findings with respect to the cause of death (*R 1712*). When the first three patients died from pyramidon in February 1945, a member from the malaria station and Dr. Hintermayer were present (*R 1713, 1723, 1731*). Dr. Blaha stated that in his experience as a physician the average patient could receive 3.3 pyramidon a day, and that the largest dose would be 2 grams per day, but that of course assumed that the individual was healthy and strong (*R 1713*). In Dr. Blaha's judgment, the prison inmates could not be given more than 1½ to 2 grams for a few days (*R 1714*). If these people were to receive 3 grams per day for three successive days, signs of poisoning would be revealed (*R 1714*).

Dr. Blaha stated that an autopsy revealed that death from pyramidon was the result of sudden suffocation which was not true in the case of typhus (*R 1725*). Death from typhus could be determined by certain indicia without a microscope (*R 1725*).

Dr. Blaha explained that the ordinary mydol tablet contained 3 pyramidon and that it is sold over the open counter (*R 1722*). If taken in moderate doses it will not have any ill effects (*R 1722*).

A leaflet of I. G. Farben, Indiana, which held the neosalvarsan contained the following instructions: "In between the individual infections, spaces of time should be permitted to elapse, from 3 to 7 days." (*Pros. Ex. 134.*) These were instructions for syphilis (*R 1564*). In paragraph five in the leaflet it read in part, "such caution in the use of neosalvarsan is recommended for undernourished and severe anaemic patients, tuberculosis, diseases of the lungs, heart, kidneys, liver, and intestines." (*R 1564, 1565.*)

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X. Merits and Defense.

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15. *Dr. Claus Karl Schilling.* Dr. Schilling, at the call of Himmler, began conducting his malaria experiments at Dachau in February 1942. He continued these experiments until liberation of the camp. It was undisputed that the inmates whom Dr. Schilling used in his work were not volunteers. Dr. Schilling's research was performed for the purpose of determining immunization for and treatment of malaria. His requests for inmates were made about every month. These lists were prepared in the camp physician's office and then sent to the camp commander and labor office. About 1,200 selectees were thus chosen for subjection. Many of them were priests. The number of people who died from the malaria or from the drugs such as pyramidon or neosalvarsan is not known. Certainly some died. It is reasonable to infer that the deaths of many of the inmates from

tuberculosis, dysentery, typhus, and other diseases were caused in part by the fact that those people had been subjected to malaria. Although Dr. Schilling's motive may have been simply and purely a scientific one, his activities exemplified the Nazi scheme which existed at Dachau. The part he played in that scheme is clear.

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XIV. Sentences.

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In many respects the accused Schilling was the most reprehensible. He voluntarily came to Dachau fully cognizant of the nature of the work he intended to perform. Being the educated and learned person that he was, Schilling undoubtedly must have realized the manner in which his work suited the needs of the Nazis. Although his personal motives may have stemmed from his desire to aid humanity, he permitted himself to utilize Nazi methods in contrast to other eminent German artists and scientists who either fled or refused to make themselves a part of the Nazi system. It is believed that the sentence of the Court, which was aware of Schilling's position in the scientific world, should be approved.

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XVI. Actions.

A form of action designed to carry the foregoing recommendations into effect, should they meet with your approval, is submitted herewith.

[Signature] Charles E. Cheever
[Typed] CHARLES E. CHEEVER
Colonel, JAGD,
Staff Judge Advocate.

MILITARY GOVERNMENT COURT ORDER ON REVIEW

Order No. 3.

Whereas Martin Gottfried Weiss, Friedrich Wilhelm Ruppert, et al., were convicted of the offenses of Violations of Laws and usages of war in that they acted in pursuance of a common design, did encourage, aid, abet, and participate in the subjection of Allied nationals and prisoners of war to cruelties and mistreatments at Dachau concentration camp and its subcamps by the General Military Court appointed pursuant to paragraph 3, SO 304, Hq., 2 November 1945, at Dachau, Germany and each accused was sentenced to death by hanging except four: Peter Betz who was sentenced to life imprisonment, Hugo Alfred Erwin Lausterer who was sentenced to confinement at hard labor for 10 years, Albin Gretsch who was sentenced to confinement at hard labor

for 10 years, and Johann Schoepp who was sentenced to confinement at hard labor for 10 years by judgment dated the 14th day of December 1945, and

Whereas the case has now come before me by way of review and after due consideration and in exercise of the powers conferred upon me, I hereby order:

That the findings and the sentence in the cases of Weiss, Ruppert, Jarolin, Trenkle, Niedermeyer, Seuss, Eichberger, Wagner, Kick, Hintermayer, Witteler, Eichelsdorfer, Foerschner, Schilling, Knoll, Boettger, Betz, Endres, Kiern, Rewitz, Welter, Suttrop, Tempel, Lausterer, Becher, Kramer, Filleboeck, Schoettl, Gretsch, Kirsch, Langleist, Lippmann, Degelow, Moll, Schulz, and Wetzel be upheld.

That the sentence imposed in the case of Eisele be reduced to confinement at hard labor for life.

That the sentence imposed in the case of Puhr be reduced to confinement at hard labor for 20 years.

That the sentence imposed in the case of Mahl be reduced to confinement at hard labor for 10 years.

That the sentence imposed in the case of Schoepp be reduced to confinement at hard labor for 5 years,

and for so doing this shall be sufficient warrant.

Dated this 24th day of January 1946.

[Signed] L. K. Truscott, Jr.,
Lieutenant General, U. S. A.
Commanding.

PARTIAL TRANSLATION OF ROSE DOCUMENT 11
ROSE DEFENSE EXHIBIT 27

EXTRACTS FROM REPORT OF PROFESSOR DR. E. GILDEMEISTER CONCERNING THE ACTIVITIES OF THE ROBERT KOCH INSTITUTE—REICH INSTITUTE FOR THE FIGHT AGAINST INFECTIOUS DISEASES

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2. Malaria Research.

a. Cultures of strains. The strain "Greece" of plasmodium vivax was bred in the department by Miss Lange till 31 December 1942, in the 30th continuous passage of man-mosquito-man. The number of infected patients up to that date was 379. The main work concerned the malaria treatment of paralytics and schizophrenics. In addition, however, there were a few therapeutic experiments with other diseases, in cases where the clinics concerned required mosquito bite infections in order to obtain a reliable malaria free from lues. The number of clinics and hospitals obtaining part or all their requirements of therapeutical malaria infection from the department rose

to 11. In addition to the strain "Greece", various other malaria strains were taken into the mosquito passage for comparative experiments; they were, however, not permanently maintained. This considerable amount of incoming clinical material was continuously collected and sorted although it has not yet been used.

In the course of the research two more laboratory infections occurred due to mosquito bites.

The following examinations by Dr. Hoering, Professor Rose, and Dr. Emmel were made possible by the maintenance of the anopheles colony and the malaria breed.

b. Parasite straining. Dr. Hoering continued her work on the improvement of the microscopic presentation of malaria parasites. Despite certain improvements of the microscopic picture it was not possible to develop a procedure easily applicable in practice and superior to the established methods.

c. Artificial feeding and artificial infection of anopheles. Dr. Hoering continued to develop the methods of artificial blood feeding of anopheles, evolved by Dr. Olzscha. In this artificial feeding the anopheles would not take citrated blood even though sugar had been added. Blood haemolized with water and saturated with sugar was taken, as well as liquid blood, although the addition of sugar was preferred. Artificial feeding of blood is biologically not altogether equal to natural feeding. The duration of life was almost the same with artificial feeding as with the normal feeding of the animal. However, females which were merely artificially fed, only laid eggs in exceptional cases.

It is known that with anopheles which suck blood from the animal, the blood enters the duodenum without previously entering the sucking stomach, while other nutritious matter first reaches the sucking and reserve stomachs. It was previously assumed that the nature of the food, especially the number of cells, acted as indicative irritation. Dr. Hoering's experiments with artificial blood nutrition showed this assumption to be wrong. Sweetened as well as unsweetened blood, which is used for artificial feeding, first enters into the reserve stomachs in the same way as a sugar solution. Further experiments proved that the piercing of a membrane also causes no indicative irritation.

After the method of the artificial feeding with blood had been developed, Dr. Hoering carried out experiments with the feeding of infected blood containing malaria. Finally, it was possible to infect anopheles by artificial feeding of blood, so that normally developed sporozoites grew inside them. This is the first time that such an experiment was successfully carried through.

d. Conservation of malaria parasites. Professor Rose had the experiments continued concerning the conservation of malaria parasites in liquids suitable for the conservation of blood. Even after 150 days malaria parasites could be demonstrated morphologically in individual cases. However, attempt at infection with such blood did not succeed. The continuation and repetition of these experiments are planned.

The as yet unknown possibility of keeping malaria parasites alive in vitro for such long periods raises the problem of whether malaria parasites may become also dormant in human beings. The fact that an infection could be achieved in human beings with 90-day-old parasites proves that these preserved parasites did not lose their development and multiplying properties. The assumption of such dormant forms in the human being would offer new explanations for malaria relapses after long intervals of recovery. The department is engaged in morphologically characterizing the dormant forms observed in a test tube and in searching for the existence of such forms in clinical malaria cases.

e. The appearance of anopheles in the Warthegau. Dr. Olzscha investigated the appearance of anopheles in 221 hamlets, villages, and scattered settlements of the Warthegau. Anopheles were found practically everywhere. The investigation of 600 individual clusters proved beyond doubt that except in a few cases where a definite determination was not possible, they belonged to the genus of messaeae of anopheles maculipennis. Only in one case were A. m. artroparvus found.

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h. Malaria treatment. Professor Rose in cooperation with Obermedizinalrat Dr. Sagel, director of the Country Mental Institution in Arnsdorf-Saxony, and Dr. Mertens, Dr. Koenig, and Dr. Peters, Leverkusen, tested the efficacy of new synthetic remedies against mosquito sting malaria. The best method of administering a new and proved preparation was developed.

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PARTIAL TRANSLATION OF ROSE DOCUMENT 47
ROSE DEFENSE EXHIBIT 35

AFFIDAVIT OF PROFESSOR DR. HANS LUXENBURGER, 24 MARCH 1947, CONCERNING ROSE'S INTEREST IN THERAPEUTICAL MALARIA TREATMENTS

I, Professor Dr. med. Hans Otto Luxenburger, born on 12 June 1894 in Schweinfurt, residing in Munich, 22 Liebigstrasse 35/II, have been informed that I will be liable to punishment if I make a

false affidavit. I declare under oath that my statement is true and was made in order to be submitted in evidence to Military Tribunal No. 1 at the Palace of Justice, Nuernberg, Germany.

Being a psychiatrist myself, I took an interest in Professor Rose's malaria research insofar as we talked now and again about Rose's progress and the results of his research. For me as a psychiatrist it was always noteworthy that Rose regarded cooperation with the psychiatrists of hospitals for the insane by no means only from the point of view of his interest in malaria research. On the contrary, he always showed definite interest in the related psychiatric-therapeutic questions. Contrary to the opinion formerly advocated by Wagner-Jauregg, he hoped to attain more thorough and permanent success in treatment by infection with mosquitoes as advocated by him (Rose) instead of the formerly customary blood transfusion, because in his opinion endothelia infection was also attained thereby.

He also was particularly interested in the question of finding a benign tropical strain and employing it in treatment, in order to carry out thorough and long fever treatments on cases of paralysis relapse; this is generally unsuccessful when employing the usual tertiana strains in cases of relapse.

He was especially interested in the possibility of therapeutic influence upon schizophrenia. In the well-known psychiatrist Dr. Sagel, he had a co-worker who advocated the opinion that schizophrenia, apart from its hereditary basis, must be caused by an additional external impairment, and he suspected that these causes lay in infectious diseases, especially rheumatic infections. Working from this assumption, he hoped for success with this disease similar to that with paralysis. This idea was not a new one. Similar experiments were conducted earlier. Rose was especially encouraged in this work by some impressive isolated successes in quite hopeless cases of schizophrenia. I can recall his joy as he told me, apart from other cases, of a woman who was about to be divorced, after the head of the institution had declared her condition, which had existed for more than 3 years, to be incurable. In this case Rose's treatment, according to his report, not only resulted in completely restoring the sick woman's health but also led to her return to her family and the reestablishment of the marriage.

Munich, 24 March 1947

[Signed] Prof. Dr. Hans Luxenburger

The above signature of Professor Dr. med. Hans Otto Luxenburger, residing in Munich, 22 Liebigstrasse 35/II, given before me, Notary, Theobald Petri, Administrator, is herewith certified and attested. Munich, 24 March 1947.

[Signed] *Petri*, Notary
(Theobald Petri), Notary
Seal Administrator of the Notary's Office, Munich
XVII

I certify that the above document is a true and correct copy. Nuernberg, 10 April 1947.

[Signature] Dr. Hans Fritz
(Dr. Hans Fritz)
Defense Counsel

PARTIAL TRANSLATION OF ROSE DOCUMENT 50 ROSE DEFENSE EXHIBIT 49

EXTRACT FROM THE AFFIDAVIT OF PROFESSOR DR. ERNST GEORG NAUCK, M. D., HAMBURG 4, BERNHARD-NOCHT-INSTITUTE FOR NAUTICAL AND TROPICAL DISEASES

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Experimental infections of human beings with malaria tertiana (mild tertian malaria) have proved to be harmless and have very frequently been carried out on voluntary experimental subjects. It is well known that artificial infection with tertiana is also carried out as a cure against other diseases (paralysis, rabies). If the artificial infection is carried out carefully and under medical supervision, death or permanent damage to health should not occur. If the experiment with malaria tertiana, as carried out by Claus Schilling, was carried out with the same care, no danger to the experimental persons should have been entailed. Since Claus Schilling was a prominent scientist of international fame, it must be assumed that he carried out his investigations with the intention or the knowledge not to harm human life. This we find confirmed in the following:

1. Stitt's diagnosis, Prevention and Treatment of Tropical Diseases, by Richard P. Strong, 7th edition, London, H. K. Lewis & Co., Ltd., 1945, page 59:

"The question of the occurrence of immunity in malaria has been extensively studied in recent years, not only from the epidemiologic standpoint but from experimental inoculations which have been carried on in both men and animals. However, in interpreting the results of the inoculations in man which have been carried out by direct injection of blood containing schizonts or by the injection of sporozoites from mosquitoes or by the bites of infected mosqui-

toes, many factors regarding the virulence or number of the parasites inoculated, the species and conditions of infectivity of the mosquitoes, the temperature at which they have been kept, and other factors, must be taken into consideration in drawing conclusions with regard to the susceptibility of individuals to infection. Much of the work is still in the experimental stage, though some definite progress has recently been made."

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EXTRACTS FROM THE TESTIMONY OF PROSECUTION WITNESS AUGUST H. VIEWEG*

DIRECT EXAMINATION

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MR. HARDY: While you were an inmate at the concentration camp, did you ever undergo any medical experiments?

WITNESS VIEWEG: I was used for malaria experiments by Professor Dachfinney at the Dachau concentration camp.

Q. How many times were you subjected to the malaria experiments by Dr. Schilling?

A. On five occasions I received injections of 5 cubic centimeters of highly infectious malaria blood.

Q. Would you kindly tell the Tribunal what effect these experiments had on you; that is, did you have high fever, serious illness, and so forth?

A. Quite often I ran a very high temperature. I got into a very exhausted condition, and after the injection I received large doses of medical drugs, quinine, ephedrine, and many others. I was in bed for weeks, and after one treatment there were 20 to 26 occasions in the course of the years 1943, 1944, 1945, and 1946, when I had malaria attacks, so that for a long time I was unable to work.

Q. At the present time, do you have recurrences of this malaria fever?

A. This last year I was in the hospital from August 1st to 15th, again with malaria attacks.

Q. How many recurrences of malaria have you endured since you were experimented on by Dr. Schilling?

A. After my treatments in the experimental station had been concluded I stayed with Dr. Schilling, and there were 20 occasions when I was treated for recurrences.

Q. Are you completely cured now, Witness?

A. No.

*Complete testimony is recorded in mimeographed transcript, 13 and 16 December 1946, pp. 418–468.

Q. After you had undergone the various experiments at the hands of Dr. Schilling, did you then become a worker in Dr. Schilling's laboratory?

A. After my first so-called immunization treatment had been concluded, the chief medical officer of that department sent me over to Dr. Schilling's department for laboratory duties.

Q. On what date did you assume those duties?

A. I am afraid I can't tell you that exactly, but it must have been on or about August 1942.

Q. What were your duties in Dr. Schilling's experimental station?

A. In Dr. Schilling's department I was in charge of animals. In other words, I cultivated animals, white mice, and canaries; in fact, I was in charge of that department.

Q. Did you have any other or additional duties, such as file clerk or typist, Witness?

A. For a certain period, I substituted for the clerk and I was in direct contact with Dr. Schilling on various occasions. I had a certain amount of business with the chemistry department, purchases from Dachau, and I was also in charge of the detachment which had to search the water near Dachau for anopheles mosquitoes.

Q. While with Dr. Schilling, did you have the opportunity to read any of Dr. Schilling's correspondence?

A. I had frequent occasions to see the reports which Dr. Schilling sent in every 3 months, and sometimes I saw the answers which Dr. Schilling received from Berlin, as well as from some other chemical manufacturers.

Q. Witness, can you recall to whom those reports were sent, in Berlin?

A. These quarterly reports, which Dr. Schilling used to prepare, went to the SS Obergruppenfuehrer Dr. Grawitz, Reich Medical Officer.

Q. You have referred to the fact, today, that you saw some of the answers Dr. Schilling received from Berlin; who was the originator of those letters that Dr. Schilling received from Berlin?

A. As far as I can recollect, these replies were sent to Professor Schilling by Dr. Grawitz.

Q. Do you know where Dr. Schilling received his material to be used in this research, that is, infected blood for the malaria experiments, fly eggs, and so forth?

A. I can remember that Dr. Schilling received malaria fly eggs, so-called eggs from which he bred other flies, from Duesseldorf; they came from an insane asylum, but I can't remember the name, and some from the Medical Institute at Rome that used to receive eggs. In fact, his material used to come from Berlin. According to

my memory, it came from Professor Rose, and also from Athens; but I am afraid I cannot recollect the name there.

Q. Do you know whether Professor Rose had any correspondence with Dr. Schilling?

A. I remember that in connection with previous breeding attempts we were not too successful, and subsequently I saw a number of letters given to a stenographer by Dr. Schilling. They were addressed to Professor Rose. He was making certain explanations in them regarding certain types of insects, in connection with which my name was used. I am certain it went to Berlin and I am certain that answers were received on numerous occasions.

Q. Did Dr. Schilling ever send any reports of these experiments to Professor Rose, to your knowledge?

A. Whether he sent reports about malaria patients, I don't know. At any rate, as far as these fly-breeding experiments are concerned, he had sent reports. I know that for certain.

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Q. Witness, we will go back to the malaria experiments for the moment. What was the nationality of the people used for the malaria experiments, what type of people were they?

A. The biggest proportion, approximately two hundred patients, used for the malaria experiments were Germans, a large proportion were Polish priests, and the rest were partly Russians, some Yugoslavs, and some Poles.

Q. Were any prisoners of war used in these experiments?

A. Of the Russians, many were prisoners of war.

Q. What was the total number of people used in these malaria experiments from your knowledge?

A. According to my knowledge, 1,084 experimental subjects were used for the malaria experiments.

Q. Will you kindly tell us, Witness, how many of these subjects used in the malaria experiments died as a result of the experiments?

A. According to my knowledge seven or eight died at the malaria station, either directly or because of the treatment with drugs. I can describe the details if you like. The first case was an Austrian who afterwards became ill because of these malaria experiments. The assistant at that time, Dr. Brachtel, who was at the same time the deputy physician at the hospital, made a liver puncture and the patient bled to death.

Q. Witness, then you state from your knowledge that seven or eight died from the experiments. Of that number who died, did the deaths occur in the malaria station itself?

A. This was the number of dead who were not transferred by us to another department, but who died at our station or a few hours after they had been transferred to another station.

Q. Have you any knowledge as to what happened to some of the other patients who were transferred to some other station after they were experimented on? That is, did some others die after they were experimented on?

A. Of our patients, during the years after they came to us for observation, I can recollect that another 60 patients died. I cannot say for certain they died of malaria or other results of the experiments.

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CROSS-EXAMINATION

Dr. Fritz: I have a few questions to ask the witness. Witness, on Friday you seemed to be fairly well acquainted with certain malaria questions, obviously on the basis of knowledge gained with Professor Schilling. I would now like to ask you the following questions concerning some very important details: During your examination by the prosecuting counsel you spoke of certain regrettable incidents. A number of deaths had occurred during the course of the malaria experiments conducted by Professor Schilling. At the time you mentioned about seven cases, but you only described one in detail. The patient had yellow fever in addition to malaria and then bled to death because the liver was punctured. I now ask you to tell me something about the reasons for the other six deaths.

Witness Vieweg: The other six patients were the so-called "medicament death" cases. One patient died as a result of the salvarsan drug. The other one died as a result of the so-called "periphery" experiment, and the last four died as the result of a pyramidon experiment.

Q. Were the patients who, after being released from the station of Schilling, suffered relapses sent back to Professor Schilling's station?

A. If they reported back to us, they were taken back to the station.

Q. In that case did any patients die in Professor Schilling's department who later on had malaria or relapses?

A. Patients who were in danger of death were transferred to another station.

Q. Do you remember whether malaria tertiana is a fatal illness?

A. As far as I know nobody with us died of malaria tertiana. The deaths were a result of the secondary diseases which appeared because of the drugs used in the malaria experiments.

Q. Did Professor Schilling say anything to you about these fatal cases which were under his responsibility and observation, and if so, what?

A. The first two cases, the patient who died as a result of the punctured liver and the one who died because of the salvarsan injection, Dr. Schilling regretted very deeply. He tried to prevent such happenings as much as possible. In the last four cases, concerning the pyramidon experiment, he was told that the patients were in a very bad condition.

Nevertheless, he insisted that they continue to receive the pyramidon drugs—I think it was 3 grams per day—and when these patients arrived at the delirium stage, they were transferred from our ward shortly before their death.

Q. And now something else. On Friday you testified that Dachau received anopheles from Dr. Rose's institute and that there was an exchange of correspondence about the difficulties you had in breeding these eggs. Do you know where Dr. Rose worked, in which institute?

A. I think these letters were addressed to the Robert Koch Institute in Berlin.

Q. Do you know from this correspondence whether these replies came from Dr. Rose personally or from his assistant?

A. That I cannot state from memory. I recall one reply from a lady who was in charge of the breeding of these eggs in Berlin.

Q. That was probably an assistant who had worked with Rose for many years?

A. Yes, but I think Professor Schilling first turned to Professor Rose, and probably the replies primarily came from Professor Rose.

Q. Can you remember the name of the lady?

A. No.

Q. Do you know with whom Dr. Schilling had dealings and correspondence in addition to Dr. Grawitz and Dr. Rose?

A. I cannot remember. I know that he corresponded with an institution in Duesseldorf called Graefenrad or something like that, and he requested the breeding of these eggs there, and they sent us flies, live flies.

Q. Did you have the name "Rose" in mind, or did you only recall his name when you were first examined?

A. No. The name "Rose" remained in my recollection because I, myself, was infected with the malaria called "Rose". He had these various immunization groups, the so-called malaria stock, which had various different names, and I was with a group which was infected with a so-called Rose Culture.

Q. You have testified before that you received eggs from Rome. You could not however remember the name. Was it perhaps Professor Vissireli, Dr. Rosni, or Dr. Raphaeli?

A. I think it was Vissireli.

Q. Did you also receive these eggs from Hamburg?

A. We received no eggs from the Tropical Institute in Hamburg, but Professor Schilling corresponded with that Institute.

Q. Can you remember in which year you received these eggs from the Robert Koch Institute, or rather from Professor Rose?

A. It was in the summer of 1942.

Q. You have told us about a number of these flies which you had to breed in the vicinity of Dachau. Were you present?

A. There was one special detachment for this purpose, including an SS man and one or two inmates. That was in the swamps surrounding Dachau during the summer months. Various water tests were made, and according to the degree of heat of the swamps, Dr. Schilling ordered the waters to be infected with a mixture of pig food. This special detachment went around the cellars of the Dachau camp during the winter months and worked on that matter. Our laboratories then examined these anopheles flies, and used them for breeding purposes.

Q. Can you state anything about the quantities caught?

A. It varied in the winter—sometimes they brought 10, sometimes 30 to 50, and sometimes 60.

Q. Did your department in Dachau deliver any such eggs to other departments?

A. We delivered such eggs on one occasion, but I cannot remember where.

Q. I now come to the question of malaria culture. From where did Professor Schilling receive his malaria cultures?

A. I cannot say exactly. I know that he received malaria cultures from Essen and from Berlin. But this was in February 1942, when I had not yet arrived at the ward. I remember we had 12 different malaria cultures. I know that Professor Schilling used one, and another man used one—I think his name was Flugg—in order to give one such culture the name of "Flugg."

EXTRACTS FROM THE TESTIMONY OF DEFENDANT ROSE*

CROSS-EXAMINATION

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MR. MCHANEY: Let's go back to the malaria experiments. What contact did you have with Schilling in 1941?

DEFENDANT ROSE: During my direct examination I testified that in 1941 I saw reports about Schilling's malaria work in Italy on behalf of the Italian Government and with the support of the Reich Ministry of the Interior; then, either at the end of 1941 or the beginning of 1942, I gave an opinion, a written opinion, on an application which Professor Schilling had sent to State Secretary Conti, or rather to the Reich Ministry of the Interior. Then I saw Professor Schilling personally in 1941. I am not certain whether he was in Germany again at that time, but I can't deny it with certainty under oath, because after all that was 6 years ago.

Q. Did you supply him with any material while he was working in Italy?

A. No, nothing.

*Complete testimony is recorded in mimeographed transcript, 24, 25 April 1947, pp. 6410–6484.

Q. Who was Fraeulein von Falkenberg?

A. You mean Fraeulein von Falkenhayn?

Q. No, I mean Fraeulein von Falkenberg.

A. I don't know any Fraeulein von Falkenberg.

Q. You are sure you didn't supply Schilling with any material in 1941?

A. I cannot remember it. It might have been done by my department without my knowledge. Then, of course, I would take the responsibility for it, but I did not learn of it until now. My assistants did not tell me anything about it, if it happened. If you can prove it happened, I shall, of course, assume responsibility for it, even if it was done without my knowledge.

Q. Well, it is not terribly important, but let us let you have a look at Document NO–1756. In the meantime, when did this incident occur about your giving material to Schilling, after he had set up his institute at Dachau?

A. I beg your pardon, I didn't understand your question.

Q. When did you give Schilling material, after he had gone to Dachau?

A. I cannot give any information about that myself. I have to depend on the testimony of my assistant, von Falkenhayn, and my secretary, Block. My secretary, Block, testified here that it was the end of 1941, but I would assume that she is mistaken about that, since Fraeulein von Falkenhayn testified that this material was given in the year 1942. I think the latter is more likely.

Q. Document NO–1756 will be marked as Prosecution Exhibit 486 for identification.

Q. Isn't there a Fraeulein von Falkenberg mentioned in this letter of yours to Schilling, dated 3 February 1941?

A. No. In the German copy of the document which you showed to me, it says Fraeulein von Falkenhayn.

Q. That is a mistake then in the English translation.

A. Fraeulein von Falkenhayn was an assistant in my department. She had formerly worked for Professor Schilling. There is an affidavit from her. Since I have this letter I can give you some information about the matter. Professor Schilling wanted to have a serological reaction in malaria, the so-called Henry reaction; that is a reaction which is carried out for the purpose of malaria diagnosis. As in the antigen reaction, in this reaction also the spleen of dead persons is used. Professor Schilling apparently wrote to me to find out whether I, as head of the tropical medical department, was in a position to obtain a spleen from a corpse where the patient had died of malaria. I answered saying that such material would hardly be available in Berlin. Malaria was very rare in Berlin and consequently

deaths from malaria were also very rare. The only cases of this type occurred in insane asylums, in the treatment of paralytics. It is well known that the first work of Wagner-Jauregg shows that in the course of malaria treatment paralysis deaths occur, just as death occurs following operations, and such malaria deaths, of course, occurred in Berlin insane asylums. As far as I can remember the matter, my assistants contacted various pathological institutes in Berlin and asked that if such an autopsy should occur there, the spleen should be preserved so that it could be sent to Professor Schilling. This was what this letter was about.

Q. Did you ever supply any to him?

A. As far as I can recall, in the course of several months, one or two such cases occurred and the material was sent to Schilling, but I cannot say for certain today.

Q. Well, you are now qualifying at least the answer you gave to my earlier question as to whether you gave him any material in 1941; isn't that right?

A. I beg your pardon. I didn't understand the question.

Q. I say you now wish to qualify the answer you gave me a few moments ago, before you saw the letter, to the effect that you had not given him any material in 1941. You now, after having seen the letter, state you did in fact give him some.

A. Yes. I am sorry. My attention was entirely devoted to the question of the malaria parasite strains and mosquitoes. I did not think of negotiations between Schilling and the pathological institute in Berlin.

Q. Let's go back to what we were discussing. You stated that although Frau Block said that the malaria eggs were supplied to Schilling in the latter part of 1941, you think probably it was 1942?

A. Yes. That is what I said. Perhaps I may correct myself. When you speak of malaria eggs you mean anopheles eggs probably. There are no malaria eggs.

Q. Yes, that is right.

A. I am inclined to agree that von Falkenhayn and Block think differently. I think that von Falkenhayn was right and that it was in 1942.

Q. Did you know anything about this before it was sent?

A. I cannot remember it. I don't believe so. As far as I remember I was informed of it by Fraeulein von Falkenhayn, after I had been given a letter from Professor Schilling that the mosquitoes were thriving in Dachau.

Q. Did you thereafter issue orders that no more material was to be sent to Schilling; is that right?

A. I did not issue a precise order. I said that since we ourselves

were using so many mosquitoes I didn't want any more material to be sent to Mr. Schilling because I was not convinced of the scientific value of his work. But Fraeulein von Falkenhayn in her testimony says that there was further correspondence with Fraeulein Lange. I have not been able to find this correspondence and I can't clear up the question completely. I have to rely fully on my assistant in this respect and I can't answer from my own knowledge. In our first conversation on the subject when I told you that Schilling got anopheles eggs from us, which you didn't know at the time, I did not tell you that he got a malaria strain from my department. I didn't know that at the time. I learned it only a short time ago from Fraeulein von Falkenhayn. That was not in the affidavit. Apparently she was afraid of some objections and sent a letter to that effect to my lawyer. I am not so timid. I am not afraid to tell you about it.

Q. In other words you did supply a Rose strain to Schilling?

A. No. As I said on direct examination, the Rose strain could not come from my department because we didn't have any strain with the name Rose. Where this strain with the name Rose comes from is a puzzle to me. I don't know of any Rose strain in malaria literature. But I don't think there is any point in quarreling about this name. The information given by Fraeulein von Falkenhayn, which I believe fully, that a malaria strain was sent—that is quite sufficient—no matter whether it is called Rose or some other name.

Q. Your witness, Frau Block, testified you had no correspondence with Schilling in 1942 and 1943, as I recall. Is that right?

A. That is what Frau Block said. I myself would not have been so definite in my testimony if you asked me the same question. I would say I can't answer that question definitely. I only know one thing, that I never corresponded with Professor Schilling on the subject of his work. Whether Schilling and I ever exchanged letters in those years I don't know, since I don't have my files. Concerning any information about such infrequent correspondence and whether he wrote a certain letter 5 or 6 years ago, he says, "I would like to look that up in my files." Unfortunately I cannot do so but perhaps you would be kind enough, if you have copies of such a letter, to make it available to me. You have my files and they are much more easily available to you than to me. For example, I am trying to find my malaria opinion from the year 1941. That was in the same filing cabinet from which you got the record of the typhus meeting on 29 December 1941 in the Ministry of the Interior.

Q. You overestimate the prosecution, Herr Professor, but we needn't dwell on that. Now, is your memory good enough to tell us how long you continued to furnish Schilling with material for his Dachau experiments? You say that somewhere along in 1942 you told them not to send any more. Are you clear about it?

A. Yes, I think I can remember reliably.

Q. Well, when did this malaria strain go down?

* * * * * * *

A. I don't know. Fraeulein von Falkenhayn merely told me that the malaria strain was given to Schilling. I don't know when. She didn't mention that in her letter to Dr. Fritz.

Q. Let's look at Document NO–1752. This will be marked as Prosecution Exhibit 487 for identification. Suppose you read the letter aloud, Professor?

A. "Prof. Claus Schilling

"Dachau, 4 April 1942
"3 K, Hospital for Inmates

"To Prof. Dr. Rose
"Berlin, Fohrerstrasse 2
"Robert Koch Institute

"Dear Colleague:

"I inoculated a person intracutaneously with sporocoides from the salivary glands of a female anopheles you sent me. For the second inoculation I do not have the sporocoides material because I do not possess the Strain Rose in the anopheles yet. If you could find it possible to send me a few anopheles infected with Strain Rose during the next few days (in the last consignment 2 out of 10 mosquitoes were infected), I would be able to continue this experiment and I would naturally be very grateful to you for this new support of my work.

"The mosquito breeding and the experiments are proceeding satisfactorily; I am working now on six tertiary strains. I remain with hearty greetings and

"Heil Hitler!
"Yours truly
"[Signed] Claus Schilling"

Q. Schilling apparently thought there was a "Strain Rose."

A. Yes. That is indicated by the letter. That clears up the matter. He must have renamed this strain which came from my department and called it Rose. That is very unusual. Normally a malariologist would not do that.

Q. Are those your initials on the bottom of this letter, "L. g. RO 17/4"?

A. Yes, that indicates that 13 days after the letter was mailed, 12 days after it arrived at the Robert Koch Institute, I saw it. There is also the file note "Settled EVF." That is Erna von Falkenhayn on 17 April 1942. I find that in spite of my instructions to the department, Fraeulein von Falkenhayn still sent mosquitoes to her old chief although she denies it now; but I should like to emphasize that, of

course, I am responsible for what Fraeulein von Falkenhayn did even if she did not tell me about it.

Q. Well, you saw the letter of 17 April 1942. Did you reaffirm your instructions that no more material was to be sent to Schilling?

A. I cannot tell you now. That is quite possible. It is not even certain that I was in the Robert Koch Institute when I saw the letter. It is much more likely that Frau Block brought this letter to my home where such things were generally settled. And, from the fact that it had been dealt with 10 days before, you can see that such letters were opened by my secretary.

Q. I thought we would be a bit generous with Frau Block and assume she hadn't seen the letter since she was so firm in the testimony that you hadn't corresponded with Schilling during these years.

Did you ever send Schilling any atroparvus eggs?

A. Yes. Those are a type of anopheles eggs which he got from us. As a type of anopheles I had anopheles eggs maculipenis atroparvus in my laboratory.

Q. Suppose I put Document NO–1753 to you. This will be marked as Prosecution Exhibit 488 for identification. This is another letter from Schilling. This one is dated a year later—5 July 1943, acknowledging, "with appreciation the receipt of your letter of 30 June and the consignment of atroparvus eggs."

I would also like to direct your attention, Professor, to the last paragraph of the letter where it says: "Please give Fraeulein Lange, who apparently takes care of her breed with greater skill and better success than the prisoner August, my best thanks for her troubles."

Do you remember the Christian name of the witness Vieweg?

A. No, I am sorry I do not remember the name of this man.

Q. If you search the record I think you will find his forename was August.

Now, Doctor, apparently they completely ignored your orders of the year previous not to send any more material to Schilling. Apparently you had a change of heart yourself. Isn't that right?

A. I have already stated expressly that my orders not to send any more material to Schilling meant that we did not have too much material ourselves. It did not mean that I had any misgivings about the way in which Schilling was carrying out his work. It is quite possible that when we again had plenty of mosquito eggs we gave some to Schilling again. I am in a very difficult position. It is difficult for me to testify anything from memory. You see here again that this matter was apparently dealt with by Fraeulein Lange and Schilling himself wrote to me again.

Q. Well, I didn't read it that way, Professor. The first line acknowledges your letter of June 30th.

A. Well, then it's possible that I wrote to Schilling.

Q. Frau Block suffered from bad memory about your correspondence with Schilling in 1943 as well as 1942, didn't she?

A. Yes, I am rather astonished because one would assume that a secretary remembers such things better, but it is, of course, possible to make mistakes if one doesn't have access to the files. I have told you that I cannot testify with any certainty to the details of such correspondence because I had too much correspondence.

Q. Well, isn't it possible you supplied material to him in 1944?

A. I consider that quite impossible. We have the testimony of Fraeulein von Falkenhayn that the department for fever therapy never gave them any material and, at that time, I no longer had an office in Berlin. However, I must again rely on Fraeulein von Falkenhayn's testimony. I myself was at Pfaffenrode once a month at the most, and I called up once or twice over long distance.

Q. I put in Document NO–1755. This will be marked "Prosecution Exhibit 489" for identification. This is a reply from you to Schilling, dated 27 July 1943. This letter speaks about shipping eggs to Schilling, doesn't it?

A. Yes, apparently. There must have been plenty of mosquito eggs, so that we could give up some of them.

Q. There wasn't as big a shortage as you thought; is that right?

DR. FRITZ: Mr. President, I ask that the photostat be shown to the defendant Rose. It is not impossible that it was written by an assistant and initialed "R." I know the signature of Professor Rose, and I think the "R" looks a little different. Perhaps he might be shown the photostat.

PRESIDING JUDGE BEALS: Let the photostat be shown to the witness.

DEFENDANT ROSE: I must say I do not understand this signature at all. When I signed a letter I signed my name, but I don't think it's very important.

* * * * * * *

4. LOST (MUSTARD) GAS EXPERIMENTS

a. Introduction

The defendants Karl Brandt, Handloser, Rostock, Gebhardt, Blome, Rudolf Brandt, and Sievers were charged with special responsibility for and participation in criminal conduct involving mustard gas experiment (indictment, par. 6 (D)). On this charge the defendants Karl Brandt, Rudolf Brandt, and Sievers were convicted and the defendants Handloser, Rostock, Gebhardt, and Blome were acquitted.

The prosecution's summation of the evidence on the Lost (mustard) gas experiments is contained in its final briefs against the defendants

Karl Brandt and Sievers. Extracts from these briefs are set forth below on pages 315 to 324. A corresponding summation of the evidence by the defense on these experiments has been selected from the closing briefs for the defendants Karl Brandt and Sievers. It appears below on pages 324 to 334. This argumentation is followed by selection from the evidence on pages 336 to 354.

b. Selections from the Argumentation of the Prosecution

EXTRACT FROM THE CLOSING BRIEF AGAINST DEFENDANT KARL BRANDT

* * * * * * *

Gas Experiments

The treatment of wounds caused by chemical warfare agents was of considerable interest to military medical circles of Germany. On 1 March 1944, the Fuehrer gave Karl Brandt broad powers in the field of chemical warfare. (*NO–012, Pros. Ex. 270.*) The decree itself is not available, but there is no dispute that Brandt's jurisdiction extended to pharmaceutical products to treat gas wounds. So much he admits. (*Tr. p. 2629.*) This necessarily involved a determination of the most effective method of treatment. That the decree included medical research on gas wounds can also be concluded from the fact that copies of the decree which Brandt sent to Himmler (*NO–012, Pros. Ex. 270*) were forwarded to Grawitz and Sievers who had previously worked on this problem. (*NO–013a, Pros. Ex. 271; NO–013b, Pros. Ex. 272.*)

In any event, on 31 March 1944, Sievers reported to Brandt about the research activities of Hirt. (*NO–015, Pros. Ex. 275.*) Hirt had been experimenting on inmates of the Natzweiler concentration camp since November 1942. (*NO–098, Pros. Ex. 263.*) For a detailed description of Hirt's experiments, see the brief against Sievers (p. 318 ff). Brandt admitted that Sievers gave him the written report by Hirt, which was introduced as Prosecution Exhibit 268 (*NO–099*) and that this report shows on its face that experiments on human beings were performed by him. (*Tr. p. 2626.*) It is significant to note that the report speaks of heavy, medium, and light wounds caused by Lost. Moreover, Brandt admitted he talked to Hirt in Strasbourg in April after the meeting with Sievers. (*Tr. p. 2610.*) Approximately 220 inmates of Russian, Polish, Czech, and German nationality were experimented on with gas, of whom about 50 died. They did not volunteer. (*Tr. pp. 1052, 1057.*) Hirt continued his gas experiments at Natzweiler during the summer of 1944. (*Tr. p. 1058.*) His gas research was classified "urgent" by Rostock in August 1944. (*NO–692, Pros. Ex. 457.*)

In addition to his participation in the gas experiments of Hirt, Karl Brandt personally furthered the criminal experimentation of Otto Bickenbach. Brandt testified that the gas experiments of Bickenbach came to his attention in the fall of 1943 on the occasion of a visit to Strasbourg to see a cyclotron; that later he helped him to arrange a laboratory; that he assisted him in obtaining experimental animals; that Bickenbach did not conduct experiments on human beings; that he helped him in 1944 after he had established this laboratory. (*Tr. pp. 2619, 2620.*)

The Sievers' diary for 1944 contains the following entry under 2 February:

"Met Professor Bickenbach in Karlsruhe and he advises that he has put his research work under the control of General Commissioner Professor Dr. Brandt.

"Discussion with SS Hauptsturmfuehrer Hirt: 1. Professor Dr. Bickenbach, without instructions from Hirt and Professor Stein, contacted General Commissioner Professor Dr. Brandt concerning the phosgene experiments that were [and was] in Natzweiler with him. Commission is to be withdrawn; for our part Natzweiler is to be closed." (*3546–PS, Pros. Ex. 123.*)

Phosgene is a chemical warfare agent. (*Tr. p. 2630.*) Brandt admits he was in Natzweiler, but insists that only animal experiments were conducted. This is in direct contradiction to statements contained in an official war crimes report of the Government of the Netherlands. (*NO–1063, Pros. Ex. 328.*) Josef Kramer, former camp commander at Natzweiler, also stated that Bickenbach experimented on prisoners. (*NO–807, Pros. Ex. 185.*)

Brandt testified that he later assisted Bickenbach in establishing a laboratory in Fort Franzeky, which is near Strasbourg, and that he saw animal experiments there. (*Tr. p. 2630.*) Bickenbach was a professor at the University of Strasbourg with Hirt and Haagen. (*Tr. p. 2631.*)

The Bickenbach reports sent to Karl Brandt not only prove that Bickenbach and his collaborators Helmut Ruehl and Fritz Letz carried out phosgene experiments on 40 Russian prisoners of war, but that four of the subjects were killed as a result. (*NO–1852, Pros. Ex. 456.*) This document completely destroys the credibility of the defendant Brandt.

These reports on the phosgene experiments are designated top military secret and are numbered 2, 3, 4, 5, 6, and 7. They are all addressed to Plenipotentiary General Brandt. These reports obviously cover the same series of experiments which culminated in experiments on 40 prisoners detailed in the 7th report. They were found in the apartment of Professor Bickenbach by French authorities. The purpose of

these experiments was to determine the effectiveness of a drug called hexamethylentetramine against phosgene poisoning. Certain preliminary studies are detailed in the 4th report, dated 11 August 1944, and mention is made of tests carried out on a "nervous Russian prisoner of war, who could not be calmed down because of language difficulties * * *".

The 7th report, which is undated, concerns experiments carried out shortly after 11 August 1944 (the date of the 4th report) as Strasbourg was overrun by the Allies a few months later. These experiments were performed on "40 prisoners on the prophylactic effect of hexamethylentetramine in cases of phosgene poisoning. Twelve of those were protected orally, twenty intravenously and eight were used as controls." On the basis of the 4th report, it can only be concluded that the 40 prisoners referred to were Russian prisoners of war. The experimental subjects are further described as being "persons of middle age, almost all in a weak and underfed condition. On principle, the healthier ones were used as controls, only control number 39 (J. Rei) and the orally protected experimental subject No. 37 (A. Rei) had a localized cirrhotic productive tuberculosis of the lungs. With the others, no pulmonary disease could be found." (*1852–PS*, *Pros. Ex. 456.*)

The experimental persons were subjected to phosgene poisoning with resulting death to no less than four subjects. (*Tr. p. 3404.*) Other subjects suffered severe lung oedema.

Defense counsel for Karl Brandt urged the possibility that this report was not received by him. Assuming *arguendo* that the report was not mailed to Brandt, and, if received, not read, the fact remains that the experiments were performed by Bickenbach and his collaborators, whose work was directly controlled by Brandt. (*Supra.*) Were there no other evidence on this point, the circumstances of the report having been addressed to Karl Brandt are sufficient proof of his responsibility. Moreover, the research of both Bickenbach and Hirt was classified urgent by Brandt's Office for Science and Research under Rostock. (*NO–692*, *Pros. Ex. 457.*)

The continued interest of Brandt in research on chemical warfare agents and his knowledge of experiments on concentration camp inmates are shown by the report dated 31 March 1945 concerning experiments at the Neuengamme concentration camp. (*NO–154*, *Pros. Ex. 446.*) Water decontamination experiments were carried out there on inmates. The report states that the "third series of experiments was carried out with an agent of the Lost group, the asphyxiating gas Lost; in accordance with the suggestion made by Oberstarzt Dr. Wirth at the conference on 4 December 1944 with Reich Commissioner Brandt."

EXTRACT FROM THE CLOSING BRIEF AGAINST DEFENDANT SIEVERS

* * * * * * *

Lost (Mustard) Gas Experiments

From the winter of 1942 until the summer of 1944, experiments to determine the most effective treatment for wounds caused by Lost (mustard) gas were conducted in the Natzweiler concentration camp under the supervision of Professor Hirt of the Reich University of Strasbourg. The experiments were ordered by Himmler and the Luftwaffe, and sponsored by the Reich Research Council. The Ahnenerbe Society and the defendant Sievers supported this research on behalf of the SS. (*492–PS*, *Pros. Ex. 267.*) The arrangement for the payment of the research subsidies of the Ahnenerbe was made by Sievers. (*NO–3819*, *Pros. Ex. 550.*)

The defendant Sievers participated in these experiments by actively collaborating with the defendants Karl Brandt and Rudolf Brandt, and with Hirt and his principal assistant, Dr. Wimmer.

The record shows that Sievers was in correspondence with Hirt at least as early as 1942, and that he established contact between Himmler and Hirt. (*NO–791*, *Pros. Ex. 256; NO–792*, *Pros. Ex. 257.*)

On 9 April 1942 Sievers wrote to Hirt that Himmler wanted detailed information from Hirt on his Lost experiments. Sievers went on to say:

> "We are sure to be in a position to put at your disposal for the furtherance of these experiments unique facilities in connection with special secret experiments which we are at present conducting at Dachau. Could you not some day write a brief secret report for the Reich Leader SS on your Lost experiments?
>
> "But you should by no means go to Berlin for the time being, especially since the Reich Leader SS is staying permanently at the Fuehrer's Headquarters. I, therefore, intend to pay you a visit at Strasbourg as soon as possible. But perhaps it would be easier for you to come to Munich, where I would have the opportunity of introducing you to the Chief of our Institute for Entomology and would be able to give you an insight into our secret experiments at Dachau." (*NO–793*, *Pros. Ex. 258.*)

The wording of the letter makes it apparent that it was Sievers himself who brought Hirt's research activities concerning Lost gas to Himmler's attention. This is also proved by the fact that on 9 February 1942, he had already submitted to the defendant Rudolf Brandt, Hirt's report concerning the creation of a skeleton collection and research in the field of intravital microscopy. The latter ex-

perimentation involved the effect of Lost on the living tissue. (*NO–085, Pros. Ex. 175.*) Brandt informed Himmler about Hirt's report on 27 February, and directed Sievers to report again on Hirt's work. (*NO–090, Pros. Ex. 176.*) It was thus Sievers' report on Hirt's research activities which prompted Himmler to take an interest in Hirt's Lost experiments.

On 27 June 1942 Sievers forwarded to the defendant Rudolf Brandt the information of Hirt concerning the use of mustard gas on combatting rats. In this letter he mentioned that he would have another conference with Hirt on this subject. According to Sievers, Hirt had voiced his expert opinion that Lost even "in a dilution of 1–100 is dangerous for man if it contacts the body in an adequate amount." (*NO–794, Pros. Ex. 259.*) It was Sievers who forwarded on 2 June 1942 Hirt's report on his experiments in treating gas wounds by vitamins. In his covering letter to this report, Sievers informed the defendant Rudolf Brandt that he was to meet Hirt "in order to discuss with him a more intensive application, continuation, and promotion of his research work". In the report itself, Hirt stated that he had not been able to conduct experiments with Lost gas on human beings because of the offensive against France, but suggested such experiments particularly in order to determine the protective effect of vitamin treatment. (*NO–097, Pros. Ex. 260.*)

In a memorandum of 26 June 1942 concerning support by the Ahnenerbe of the research work of Hirt on mustard gas, Sievers proposed that an Institute for Military Scientific Research be established within the Ahnenerbe to bring together Hirt's and similar research and thus facilitate the organizational and technical execution of the experiments. He proposed appointing Hirt as an active member of the new institute as chief of Department H (Hirt). He also stated that Rascher, who was then performing high-altitude experiments in collaboration with Ruff and Romberg, should be appointed as chief of Department R (Rascher). He stated that the necessary supplies for the new institute would be easier to explain and more reasonable than if applied for under the name of Ahnenerbe alone. (*NO–2210, Pros. Ex. 483.*)

As a result of this suggestion by the defendant Sievers, Himmler directed the establishment of the Institute for Military Scientific Research within the Ahnenerbe in July 1942. In his letter to Sievers, Himmler requested that the new institute "support in every possible way the research carried out by SS Hauptsturmfuehrer Professor Dr. Hirt and promote all corresponding research and undertakings; to make available the required apparatus, equipment, accessories and assistants, or to procure them * * *." (*NO–422, Pros. Ex. 33.*)

Sievers proceeded to make all the necessary arrangements for carrying out the Lost gas experiments in the Natzweiler concentration

camp. On 27 August 1942 in a letter to Gluecks of the WVHA, he stated that in connection with a visit to Hirt in Strasbourg he would like to take Hirt with him to Natzweiler on 31 August 1942 and he asked Gluecks to make the necessary arrangements with the commander of the camp. (*NO–935*, *Pros. Ex. 481.*) In a file note dated 17 September 1942 Sievers stated that the conference mentioned in his letter to Gluecks had been held in Natzweiler on 31 August 1942, and that the working conditions there for the proposed experiments were favorable. Professor Hirt, Stabsarzt Dr. Wimmer, and Dr. Kieselbach would require automobile transport for part of the trip from Strasbourg to Natzweiler in order to perform their work there, and accordingly 20 liters of gasoline would have to be made available to the camp authorities each month. (*NO–977*, *Pros. Ex. 482.*) In a letter of 11 September 1942 to Gluecks, Sievers stated that the necessary conditions existed in Natzweiler "for carrying out our military scientific research work * * *". He requested that Gluecks issue the necessary authorization for Hirt, Wimmer, and Kieselbach to enter Natzweiler, and that provision be made for their accommodation and board. He also stated that:

> "The experiments which are to be performed on prisoners are to be carried out in four rooms of an already existing medical barrack. Only slight changes in the construction of the building are required, in particular the installation of the hood which can be produced with very little material. In accordance with attached plan of the construction management at Natzweiler, I request that necessary orders be issued to same to carry out the reconstruction. All the expenses arising out of our activity at Natzweiler will be covered by this office * * *." (*NO–978*, *Pros. Ex. 480.*)

In a memorandum on 3 November 1942 to the defendant Rudolf Brandt, Sievers complained about certain difficulties which had arisen in Natzweiler because of the lack of cooperation from the camp officials. Sievers was particularly outraged by the fact that the camp officials were asking that the experimental prisoners be paid for. He said that:

> "When I think of our military research work conducted at the concentration camp Dachau, I must praise and call special attention to the generous and understanding way in which our work was furthered there and to the cooperation we were given. Payment of [for] prisoners was never discussed. It seems as if at Natzweiler they are trying to make as much money as possible out of this matter. We are not conducting these experiments, as a matter of fact, for the sake of some fixed scientific idea, but to be of practical help to the armed forces and beyond that to the German people in a possible emergency." (*NO–098*, *Pros. Ex. 263.*)

Brandt was requested to give his help in a comradely fashion in setting up the necessary conditions at Natzweiler. The defendant Rudolf Brandt replied to this memorandum on 3 December 1942, and told Sievers that he had had occasion to speak to Pohl concerning these difficulties, and that he had reported that they would be remedied. (*NO–092, Pros. Ex 180.*)

The witness Holl gave in his testimony an accurate and detailed description of the manner in which the Lost gas experiments were carried out. The execution of the experiments was supervised by Hirt in the experimental station Ahnenerbe in the Natzweiler concentration camp. In the middle of October 1942 the preparation for these experiments was finished and the actual experimentation began sometime in October or November, after the experimental subjects were given the same food as the SS guards for approximately 14 days. The first series of experiments was carried out by Hirt on 30 experimental subjects with a liquid gas substance. (*Tr. p. 1051.*) In spite of the fact that Hirt, before selecting these experimental subjects, had promised them that he would intervene with Himmler in order that they should be released as a reward if they would volunteer for the experiments, none of the experimental subjects of all the experiments carried out by Hirt volunteered. Political prisoners, Russians, Poles, Czechs, and also some German nationals were among the experimental subjects used. (*Tr. p. 1052.*)

The first series of experiments was carried out by Hirt and an officer of the Luftwaffe in the following manner: One drop of the liquid was applied to the lower arm of the experimental subject. Approximately 10 hours later burns began to appear and spread over the whole body in every place where drops of the fluid contacted the skin. Some of the experimental subjects became partially blind. The victims of these experiments suffered terrible pain. Photographic pictures of the burns were taken daily. After the fifth or sixth day of the experiment, the first fatality occurred. The corpse of the victim was dissected and the autopsy showed that the greater parts of the lungs and other organs had been destroyed. On the following day, that is, on the seventh day of the experiment, another seven of the experimental subjects died. The remaining 22 were sent to another concentration camp after approximately 2 months when they had recovered sufficiently and became fit for transport. (*Tr. pp. 1052–3.*) Other experiments on concentration camp inmates of the Natzweiler concentration camp were carried out in the gas chamber approximately 500 meters distant from the camp. The experimental subjects had to enter this gas chamber two by two. They had to smash small ampules which contained the liquid. This liquid evaporated and the experimental subject then had to inhale the resulting vapor. Usually the

experimental subjects became unconscious and were returned to the Ahnenerbe station for further observation of the results of the experiments. (*Tr. pp. 1053–4.*) These results were approximately the same as those observed in the first series. The breathing organs of the experimental subjects were likewise destroyed. Their lungs had been eaten away by the gas. About 150 concentration camp inmates were experimented upon in this manner. (*Tr. pp. 1034–5.*) Approximately the same percentage as in the first series died as a result of this type of experimentation. (*Tr. p. 1056.*)

Other Lost gas experiments were carried out by means of injection. These experiments were carried out in a special room adjoining the crematorium. The victims of these experiments died without exception. (*Tr. p. 1056.*) Another type of experiment was carried out on the experimental subjects, who had to take the liquid orally. As Holl was transferred before Christmas 1943 to an outside camp, he was not able to give information on the results of this type of experiment. (*Tr. p. 1056.*) He, however, returned once a month to the Natzweiler concentration camp and was therefore able to observe that the Lost gas experiments continued until autumn 1944, when the Natzweiler concentration camp was liberated by the Allies. (*Tr. pp. 1057–8.*)

From Holl's testimony it is proved that approximately 220 inmates of Russian, Polish, Czech, and German nationalities were experimented upon with gas by Hirt and his collaborators. About 50 of them died. None of the experimental subjects volunteered. (*Tr. pp. 1052, 1057.*)

On 7 April 1943, when the Lost experiments were well under way (*supra*), Himmler ordered an intensification of Lost research. At about this time the progress of Hirt's Lost research was threatened by the transfer of Hirt's assistant, Wimmer, a medical officer of the Luftwaffe. Since personnel matters fell within the scope of Sievers' duties, he wrote to Rudolf Brandt protesting the proposed transfer of Wimmer and stating that if Wimmer left the Institute for Military Scientific Research, the Lost experiments would have to end. Sievers then outlined the proper procedure for securing the future services of Wimmer at the Ahnenerbe Institute. (*NO–193, Pros. Ex. 264.*)

Again, on 3 November 1943, Sievers, in order to further the Lost experiments and assure their continuation, made a certificate which enabled two of Hirt's research assistants to obtain increased food rations. Sievers stated that the research activities in which these persons were engaged with Department H (Hirt), Strasbourg, of the Institute for Military Scientific Research of the Ahnenerbe involved health-damaging poisons which had caused injuries to their health. (*492–PS, Pros. Ex. 267.*)

The evidence clearly indicated that during the entire period covered

by the Lost experiments, Hirt was associated with the Ahnenerbe Society. In early 1944 Hirt and Wimmer summarized their findings from the Lost experiments in a report entitled "Proposed Treatment of Poisoning caused by Lost". The report was described as from the Institute for Military Scientific Research, Department H of the Ahnenerbe, located at the Strasbourg Anatomical Institute. Light, medium, and heavy injuries due to Lost gas are mentioned. Sievers received several copies of this report. (*NO–099, Pros. Ex. 268.*) On 31 March 1944, after Karl Brandt had received a Fuehrer Decree giving him broad powers in the field of chemical warfare (*NO–012, Pros. Ex. 270*), Sievers informed Brandt about Hirt's work and gave him a copy of the report. This is proved by Sievers' letter to Rudolf Brandt on 11 April 1944. (*NO–015, Pros. Ex. 275.*) Karl Brandt admitted that the wording of the report made it clear that experiments had been conducted on human beings. (*Tr. p. 2626.*)

The proof has also shown that in October 1943 the defendant Blome, in his capacity as a Plenipotentiary in the Reich Research Council, issued a research assignment for Hirt in support of his gas experiments. This is proved by the file index card on Blome's research assignment in the Reich Research Council, where the assignment to Hirt by Blome is listed under SS priority number 0329. (*NO–690, Pros. Ex. 120.*) Sievers admitted that a Reich research assignment to Hirt "on the behavior of Lost gas in living organisms" was made. (*Tr. p. 5817.*) He further admitted that at a conference in April 1942, Himmler told him that Hirt should make Lost experiments on human beings other than volunteer military cadets. (*Tr. p. 5679.*)

Sievers testified that on 25 January 1943, he went to Natzweiler concentration camp and consulted with the camp authorities concerning the arrangements to be made for Hirt's Lost experiments. These arrangements included the obtaining of laboratories and experimental subjects. (*Tr. pp. 5842–43.*) Sievers testified that the Lost experiments were harmful. (*Tr. p. 5810.*) On the visit of 25 January 1943, Sievers saw ten persons who had been subjected to Lost experiments and watched Hirt change the bandages on one of the persons. Sievers said that the experimental subjects told him that they were volunteers and Hirt confirmed this to Sievers. (*Tr. p. 5732.*) The testimony of Sievers was contradictory as to his knowledge that the Lost experiments caused deaths. Sievers testified that in March 1943 he asked Hirt whether any of the experimental subjects had suffered harm from the experiments and was told by Hirt that two of the experimental subjects had died due to other causes. (*Tr. p. 5733.*) On the other hand, Sievers seemed to be referring to Lost experiments when he stated that he knew of one condemned criminal who had died from the experiments. (*Tr. p. 5810.*) As to the nationality of the experimental subjects, Sievers was of the opinion, in view of their manner

of speech, that the test persons were Germans. (*Tr. p. 5812.*) The proof, however, clearly shows that Sievers already, as early as January 1942, had knowledge that nonvolunteers were to be used for the Lost experiments of Hirt. In his letter of 3 January 1942, Sievers requested Hirt to submit comprehensive research reports to him in order that he might forward them to Himmler. Sievers assured Hirt that Himmler would permit Hirt to conduct experiments of any kind "on prisoners and real criminals who would never be released anyhow and on persons scheduled for execution." (*NO–3629, Pros. Ex. 547.*)

Sievers' diary entries indicate that his primary concern was making the necessary arrangements for the carrying out of the Lost experiments. On 25 January 1943 Sievers visited Natzweiler and consulted with the camp administration; on 28 January 1943 Sievers consulted with Pohl concerning the continuation of the Lost experiments and undoubtedly arranged for the allocation of test persons, although he testified that his conversation related to obtaining space for animals. (*Tr. p. 5736.*) On 24 and 25 January Sievers received reports from Hirt on Lost experiments and on 17 March 1943 Sievers attended a conference at the Institute for Military Scientific Research where Lost experiments were reported. (*NO–538, Pros. Ex. 122.*)

c. Selections from the Argumentation of the Defense

EXTRACT FROM THE CLOSING BRIEF FOR DEFENDANT KARL BRANDT

* * * * * * *

I. Experiments performed. Counsel for the defense does not wish to make a statement in this connection.

II. Order to carry out the experiments. The defendant Karl Brandt is not mentioned in connection with the order to carry out these experiments.

1. *Drug F 1001.* NO–199, Prosecution Exhibit 253, and NO–198, Prosecution Exhibit 254, show that the order to carry out these experiments in the Sachsenhausen concentration camp was given by Himmler or Reich Physician SS Grawitz in 1939. This is confirmed by the fact that the reports on the concluded experiments were submitted to Grawitz or Himmler.

2. "*Lost*" *experiments.* According to NO–098, Prosecution Exhibit 263, the order to Hirt was given on 13 July 1942 as shown in the letter dated 3 November 1942, which contains a research commission of the SS Institute for Applied Military Scientific Research of the Ahnenerbe. According to 492–PS, Prosecution Exhibit 267, the order to carry out experiments was given by Himmler or Goering.

In accordance with Sievers' testimony (*Tr. pp. 5733–34*) Himmler,

on 8 March 1944, ordered Hirt to carry out human experiments despite the latter's arguments that only animal experiments could achieve further results. The issuing of this order is supported by the fact that the reports were sent to Reich Physician SS Grawitz to be passed on to Reich Leader SS Himmler. NO–085, Prosecution Exhibit 269, contains a preliminary final report made by Hirt of the year 1941; NO–097, Prosecution Exhibit 260, Hirt's final report of 2 June 1942 to be submitted to the Reich Leader SS; also NO–099, Prosecution Exhibit 268, Hirt's 1944 proposals for treatment. This is also supported by the correspondence between Sievers and Hirt. NO–793, Prosecution Exhibit 258, reports on a conference with Himmler.

3. *N–substance.* The order to carry out the experiments was issued by Reich Physician SS Grawitz in connection with Schwab and after Gebhardt, Gluecks, and Panzinger had been heard. Reference is made to an instruction from Hitler and an order from Himmler of 15 May.

III. Reason for and aim of the experiments. Statement of the defendant Karl Brandt. (*Tr. p. 2383.*)

1. *"Lost" and Drug F 1001.* Research work on a healing drug for injuries, not poisoning, caused by "Lost". Experiments of this kind have been carried out by all nations since World War I, England being the leading nation in these experiments on human beings. The general need for experiments on human beings, and only those are relevant here, has been recognized by all nations as a military necessity. (*Karl Brandt 106, Karl Brandt Ex. 49; Karl Brandt 107, Karl Brandt Ex. 50.*)

The necessity to carry out experiments increased in Germany, particularly during World War II, as all nations were eagerly engaged in the manufacture of "Lost" gas. The need became imperative in 1944 when reliable sources reported that the enemy was getting chemical-warfare agents ready. (*Karl Brandt 103, Karl Brandt Ex. 42; Karl Brandt 101, Karl Brandt Ex. 41; Karl Brandt 11, Karl Brandt Ex. 10; Karl Brandt 12, Karl Brandt Ex. 11.*)

2. *N-substance.* Reasons for and aim of the experiments are unknown. N-substance is the name for "normal" substance. It is not a chemical warfare agent but a fuel substance, intended to be used for ignition. This N-substance is not to be mistaken for N-"Lost", that is, nitrogen-Lost. (*Karl Brandt 88, Karl Brandt Ex. 36; Karl Brandt 103, Karl Brandt Ex. 42.*)

IV. Participation in the performance of the experiments.

1. *Drug F 1001.* The experiments were carried out exclusively at SS offices on the orders of the Reich Leader SS. They were performed before the defendant Karl Brandt received his first official appointment.

2. "*Lost*". The experiments were made by Hirt and Wimmer in the SS Institute for Military Scientific Research in Strasbourg. According to Sievers' testimony (*Tr. p. 5788*) the defendant Karl Brandt did not have any influence on these institutions. The "Lost" chemical warfare agent does not act like gas, but in a dried form injures the skin. Ordinarily, experiments are made by all nations by applying small drops of "Lost" to the skin. They cause injuries to the tissue, which are treated with healing drugs. This procedure is demonstrated in Holl's testimony. (*Tr. p. 1052.*)

3. *N-substance.* Sievers' testimony (*Tr. p. 5738*) shows that the experiments were not carried out due to a laboratory experiment of Professor Thyssen and an expert opinion sent to Himmler.

V. The experimental subjects.

A. Number of experimental subjects.

1. *Drug F 1001.* No statement.

2. "*Lost*". The statements made by the witness Holl about the number of persons experimented upon must be treated with caution, since they do not originate with Holl, but were stated by the prosecution and merely confirmed by Holl. The testimony of Nales about experiments cannot refer to "Lost".

3. *N-substance.* Since there were no experiments, no statement is made.

B. Consent of the experimental subjects.

1. *Drug F 1001.* No statement.

2. "*Lost*". Sievers' testimony (*Tr. p. 5732*) shows that Hirt said that the experimental subjects had volunteered, following a lecture by Hirt. This testimony seems to be quite trustworthy, as it was usual to make similar experiments on officer candidates of the Academy of Military Medicine in Berlin. Testimony of Becker-Freyseng (*Tr. p. 8072*) as well as testimony of Sievers (*Tr. pp. 5730–31*); also testimony of the witness Nales (*Tr. pp. 10409–10471*).

3. *N-substance.* No experiments, no statement.

C. Type of experimental subjects.

1. *F 1001.* The documents submitted do not reveal the nature of the experimental subjects, though the year 1939 indicates that in no case were foreigners used.

2. "*Lost*". According to Sievers' testimony, the persons used in the experiments in the Natzweiler concentration camp volunteered, so that the nature of the experimental subjects would appear to be of no significance as a basis for judgment. The testimony of the defendant Rudolf Brandt (*NO–372, Pros. Ex. 252*) is no basis to judge the true state of affairs, as Rudolf Brandt's testimony (*Tr. pp. 4930–34*) shows that he himself never witnessed an experiment and that his

statements are conclusions drawn from documents and statements submitted by the interrogators.

3. *N-substance.* No experiments, no statement.

D. Danger involved for the experimental subjects.

1. *Drug F 1001 and "Lost".* The usual forms of the "Lost" experiments, applying a drop to the skin, as described by Holl (*Tr. p. 1052*) do not entail any danger to life, because the aim is to ascertain the most detailed reactions of the skin towards tiny drops of "Lost". Experiments with deadly quantities would prevent this being ascertained. The relevant statements of the witness Holl must be due to ignorance of the manner of the experiment. Holl's statement (*Tr. p. 1050 ff.*) and the affidavit of Wagner (*NO–881, Pros. Ex. 280*) also, to a certain degree, contradict each other. Holl, a miner by profession, who was hospital Kapo [inmate trusty] in Natzweiler, makes scientific statements with illustrations, to which one can hardly attach any value. The affidavit of Wagner who, as a scientific designer, held, during the experiments, an elevated position within the inner working circle, is far more reserved. He knows nothing of deaths occurring during "Lost" experiments. His conclusions as to how dangerous the "Lost" experiments were are based on a chart which was most likely intended for a committee. Sievers' statement (*Tr. p. 5732*) reports a visit to Wimmer at Strasbourg during which the latter did not mention that there had been any deaths. Hirt also confirms this in March 1943; though he cites two deaths, they had not resulted from "Lost" experiments. The experiments with drug F 1001, too, are "Lost" experiments. The danger involved in the experiments has been described accurately. There are no deaths and health is not impaired permanently. In 23 cases general condition was not impaired. (*NO–199, Pros. Ex. 253.*) In contrast to this, NO–198, Prosecution Exhibit 254, mentions serious disturbances of the general condition in eight cases. Yet it must be assumed that these disturbances were of a temporary nature and occurred only when the climax of the injury was reached. They did not last throughout the duration of the experiments.

2. *N-substance.* The experiments were not carried out. Over and above that, NO–005, Prosecution Exhibit 279, discloses that the experiments would, most probably, not result in any permanent bodily harm.

VI. Special responsibility and participation of the defendant Karl Brandt.

1. The defendant Karl Brandt did not issue any order to carry out experiments. Karl Brandt did not have authority to issue orders.

2. The decree of 1 March 1944 concerning defense equipment in chemical warfare has been reconstructed by means of the following

affidavits: (*Karl Brandt 103, Karl Brandt Ex. 42; Karl Brandt 5, Karl Brandt Ex. 6; Karl Brandt 11, Karl Brandt Ex. 10; Karl Brandt 4, Karl Brandt Ex. 5; Karl Brandt 101, Karl Brandt Ex. 41; Karl Brandt 89, Karl Brandt Ex. 37*). They show that this decree does not refer to an authorization to give orders concerning chemical-warfare agents and their research, but that it represents a production order referring to defense equipment in chemical warfare. Document NO–015, Prosecution Exhibit 275, proves that Hirt's experiments had been completed when the defendant Karl Brandt received, through Sievers, Hirt's treatment-instructions for injuries caused by "Lost" following the decree of 1 March 1944. The very fact that in this way, for the first time, he gained knowledge of the results of the experiments proves that this was an SS affair of Himmler and Hirt and that it belonged to a sphere where interference was denied to Karl Brandt by strict orders (see statements on participation in experiments by virtue of contacts with Himmler). (*Also Karl Brandt 120, Karl Brandt Ex. 35.*) The affidavit of Rudolf Brandt (*NO–372, Pros. Ex. 252*) is refuted by Karl Brandt 13, Karl Brandt Exhibit 12, as well as statements made by Rudolf Brandt. (*Tr. pp. 4930–34.*) As a matter of fact the name of the defendant Karl Brandt is never mentioned in the numerous documents extending over a period of several years. The special secrecy surrounding the Noli Decree and its contents with regard to poison gas defense is made sufficiently clear by the necessity of safeguarding the inadequate poison gas defense in the least possible time, and to hide this from the enemy. (*Karl Brandt 103, Karl Brandt Ex. 42; Karl Brandt 101, Karl Brandt Ex. 41; Karl Brandt 11, Karl Brandt Ex. 10.*)

3. Karl Brandt's efforts not to experiment on human beings are proved by the fact that he had animal material, i. e., man-like apes, brought from Spain and Africa by the Luftwaffe at great expense. Had he been predominantly inclined to experiment on human beings, to be had free of cost, he would hardly have gone to such expense. (*Karl Brandt 12, Karl Brandt Ex. 11.*) The exhaustive enumeration of parties engaged on work with N-gas (*NO–005, Pros. Ex. 279*) proves that the defendant Karl Brandt did not participate. The N-gas problems belong to a very different sphere, as shown by the Documents Karl Brandt 88, Karl Brandt Exhibit 36, and Karl Brandt 103, Karl Brandt Exhibit 42. This is further confirmed by Sievers' letter to Hirt of 9 April 1942. (*NO–793, Pros. Ex. 258.*) In it, reference is made to the possibility of advancing experiments by "single possibilities".

NO–422, Prosecution Exhibit 33, contains an order by Himmler of 7 July 1942 to Sievers and the SS Institute Ahnenerbe to support Hirt's researches in every possible way.

4. The codefendant Rudolf Brandt does not know the contents of

the decree of 1 March 1944, though he distinctly alludes to it in his affidavit. (*NO–372, Pros. Ex. 252; Tr. pp. 4941–42.*)

EXTRACT FROM THE CLOSING BRIEF FOR DEFENDANT SIEVERS

* * * * * * *

1. Lost gas experiments were carried out from November 1942 on by Professor Dr. Hirt in the Natzweiler concentration camp.

2. According to the statement of the witness Nales in the session of 30 April 1947, three experimental persons died. Other experimental persons are supposed to have suffered from severe burns.

3. Sievers did not personally participate in these experiments. The prosecution has submitted the following evidence to prove Sievers' participation in the Lost gas experiments:

Letter of Sievers to Dr. Hirt of 17 January 1942 (*NO–791, Pros. Ex. 256*) concerning experiments with insecticides.

Letter of Dr. Hirt to the Ahnenerbe of 20 January 1942 (*NO–792, Pros. Ex. 257*) concerning answer to Sievers' letter.

Sievers' letter to Dr. Hirt of 9 April 1942 (*NO–793, Pros. Ex. 258*) concerning Dr. Hirt's treatises on intravital microscopy and Lost experiments.

Sievers' letter to Dr. Brandt of 27 August 1942 (*NO–794, Pros. Ex. 259*) concerning the passing on of a message of Dr. Hirt on the results of Lost experiments.

Letter of the Ahnenerbe to Dr. Brandt of 2 June 1942 (*NO–097, Pros. Ex. 260*) concerning Dr. Hirt's report on Lost wounds. Experiments on human beings could not be made as Hirt was at the front.

Note of the Reich Business Manager of 3 November 1942 (*NO–098, Pros. Ex. 263*).

Letter of the Reich Business Manager of the Ahnenerbe to Dr. R. Brandt of 22 April 1943—concerning release of Staff Physician Dr. Wimmer from the air force so that he can do further work with Dr. Hirt on Lost experiments. (*NO–193, Pros. Ex. 264.*)

Letter of the personal staff of the Reich Leader SS to Ministerial Councillor Dr. Goernert, of 9 June 1943—concerning Dr. Wimmer's transfer. (*NO–195, Pros. Ex. 266.*)

Certificate of the Institute for Military Scientific Research of 3 November 1943—concerning the sending of special rations of food to Dr. Wimmer and Frl. Schmitt. (*492–PS, Pros. Ex. 267.*)

Proposed treatment of poison-gas injuries through Lost. (*NO–099, Pros. Ex. 268.*)

Letter of the Reich Business Manager of the Ahnenerbe to Dr. Brandt of 9 February 1942—concerning forwarding Dr. Hirt's

report on his medicinal experiments and a microscope, which enables one to observe a living tissue. (*NO–085, Pros. Ex. 269.*)

Letter of the personal staff of the Reich Leader SS to the Ahnenerbe of 10 March 1944—concerning the transmission of a Fuehrer Decree of 1 March 1944. (*NO–013, Pros. Ex. 272.*) The Fuehrer Decree mentioned—of 1 March 1944—has not been submitted.

Letter of the Office "A" to Dr. R. Brandt of 11 April 1944 concerning Sievers' report to SS Brigadefuehrer Prof. Dr. Brandt on the research work of Dr. Hirt. (*NO–015, Pros. Ex. 275.*)

Letter of Sievers to SS Brigadefuehrer Gluecks of 11 September 1942 (*NO–978, Pros. Ex. 480*) concerning military scientific research in connection with the Natzweiler concentration camp.

Letter of Sievers to SS Brigadefuehrer Gluecks of 27 August 1942 concerning military scientific research in connection with the Natzweiler concentration camp. (*NO–935, Pros. Ex. 481.*)

Sievers' memorandum concerning the carrying out of military scientific research in the Natzweiler concentration camp of 17 September 1942. (*NO–977, Pros. Ex. 482.*)

The defense refers to the following evidence:

Lost experiments were carried out at the Military Medical Academy in Berlin. The experimental persons were cadets studying at this Academy. (*NO–097, Pros. Ex. 260; Tr. p. 5679; Tr. pp. 8071–72.*) Professor Dr. Hirt, later Director of the Anatomical Institute at the University of Strasbourg, took part in carrying out these experiments. (*Tr. p. 5731.*) Professor Hirt also carried out Lost experiments on himself. (*Tr. p. 5733.*) Hitler then decreed that experiments were no longer to be carried out on cadets, as they were more important as soldiers. Himmler gave Dr. Hirt orders to carry out a few practical experiments on human beings in addition to his animal experiments. Then on 9 April 1942 Himmler asked Sievers, who in his discussion with him at Easter 1942 had also mentioned the research done by Professor Hirt, to ask the latter in writing to submit a secret report on his Lost experiments. (*NO–793, Pros. Ex. 258.*) Hirt then gave this report to the Ahnenerbe, from where it was forwarded, with a letter on 2 June 1942 to the personal staff of the Reich Leader SS. (*NO–097, Pros. Ex. 260.*) The heading of this letter is remarkable: "Report on the Lost experiments carried out by order of the Wehrmacht." Dr. Hirt mentions further on page four of the report that he submitted the written report on the results of his Lost experiments to the surgeon general who was his superior at that time. From this report, it is quite clear that experiments on human beings, with the exception of cadets, had not yet been carried out by Hirt. However, Dr. Hirt made a further short report, which the Reich Business

Manager of the Ahnenerbe forwarded to the personal staff of the Reich Leader SS on 27 August 1942. (*NO–794, Pros. Ex. 259.*)

In a letter of 13 July 1942 the Reich Leader SS ordered that Dr. Hirt should carry out the research work assigned to him in the Natzweiler concentration camp. (*NO–098, Pros. Ex. 263.*) Sievers set out for Natzweiler with Dr. Hirt at the end of August 1942 in order to ascertain whether the prerequisites existed. As is shown in Dr. Hirt's report of 19 October 1942, nothing had yet happened besides the drafting of Oberscharfuehrer Walbert, the animal-keeper. The extension of the laboratories and stables had not yet begun. And now Dr. Hirt's report continues:

> "We were further informed that prisoners, who are later to be experimented on, would have to be paid by us while they are subjected to the experiment. For the prisoners in the L-experiment we propose that they are put on full diet (guards' diet), so that the experiments can be carried out under the same conditions as would prevail with the troops in an actual case. To begin with we intend to take 10 prisoners for the experiment." (*NO–098, Pros. Ex. 263.*)

As Hirt reported in addition that the assignment of a second physician to the Natzweiler concentration camp would be difficult, Sievers was asked to participate in the efforts to obtain the release of Dr. Wimmer, surgeon captain of the air force, in order to make him assistant to Dr. Hirt, especially as the Reich Leader SS expressly wished that Dr. Wimmer's transfer should take place as soon as possible. (*NO–194, Pros. Ex. 265.*)

It was the duty of Sievers to deal with questions of billets, laboratory finance and similar matters. Therefore, in August and September 1942 he wrote to SS Brigadefuehrer Gluecks, who was responsible for the administration of the concentration camps. (*NO–935, Pros. Ex. 481; NO–977, Pros. Ex. 482; NO–978, Pros. Ex. 480.*) They contain only administrative matters.

How little Sievers knew about concentration camps is seen from Document NO–935. Sievers asks to be sent the exact address of the camp and of the commandant of Natzweiler. This letter is particularly worthy of notice.

As for the question whether and to what extent Sievers had knowledge of the performance of Lost experiments in the Natzweiler concentration camp, the following can be stated:

Ferdinand Holl, witness for the prosecution, when giving evidence on 3 January 1947, said nothing about Sievers' taking part in any way in the performance of the Lost experiments at the Natzweiler con-

centration camp. The experimenters were Dr. Hirt and officers of the Luftwaffe. The witness Holl did not mention Sievers at all. If Sievers, who wore SS uniform, had become known at all in connection with the Lost experiments, this witness would certainly have made some such statement, especially as he was dispensary assistant [Revierkapo] and prisoners' guard in the so-called Ahnenerbe block in the Natzweiler concentration camp. (*German Tr. pp. 1051–1059.*)

The witness Grandjean too, who was at the Natzweiler concentration camp hospital as medical assistant from April 1944 on, knows nothing of Sievers' presence at the Natzweiler concentration camp or of any connection between Sievers and the Lost experiments. (*Tr. p. 1099 ff.*)

Sievers was in Natzweiler concentration camp on 25 January 1943 and also visited the barracks where the experimental persons for the Lost experiments were housed. Dr. Wimmer showed Sievers some of the experimental persons with their forearms in bandages. There were about 10 persons altogether who gave the impression of being quite lively. One of the experimental subjects was just having his bandage changed, and Sievers saw that the place being treated on the arm was covered with a scab. Dr. Wimmer reported nothing about fatal incidents. On the other hand, by questioning the experimental subjects himself, Sievers found that they volunteered for those experiments after a lecture by Professor Hirt. Sievers also learned that from Dr. Hirt himself, who at the end of the experiments confirmed that he had sent to the camp commandant a report on the good behavior of the prisoners with a recommendation for their release. (*German Tr. pp. 5732–33.*) The lecture which Hirt had previously delivered to the experimental persons is also confirmed by the witness Holl. (*German Tr. pp. 1051–1059.*) This was the only visit Sievers paid to the experimental subjects of the Lost experiments. After 25 January 1943 Sievers never went to Natzweiler again. This is already known from his diary entries.

Sievers attached a certain danger to the experiments, but, not being a physician, he was in no position to judge exactly from the experiments and the way in which they were carried out whether there was reason to be prepared for fatal results. In March 1943 Sievers asked Dr. Hirt whether any experimental subjects had died. Hirt admitted two deaths which, he remarked, however, had no connection with the Lost experiments. (*German Tr. pp. 5732–33.*)

The statement of the witness Nales, heard in the session of 30 April 1947, deserves special attention. This witness confirmed that the experimental subjects who had reported for the "Burning Experi-

ments" were *volunteers*. The witness thereby confirmed Sievers' statement of 10 April 1947. (*German Tr. pp. 5732–33.*) The witness admitted under cross-examination that Professor Dr. Hirt, as well as the SS camp physician, explained to the experimental subjects the nature of the planned experiments. It may be that the SS camp physician did not precisely state the actual danger of the experiments. But it may certainly be supposed that Dr. Hirt described the nature of the planned experiments more closely in his instructions, which are also confirmed by the witness Holl. Here Sievers had just as little to do with the choice of experimental subjects as in all the other cases. He was present neither at the lecture of the camp physician nor at that of Dr. Hirt. He could and had to rely on what Dr. Hirt told him concerning the question of volunteering.

4. In the case in question, Sievers was again not in a position to give instructions or orders on the carrying out of the Lost experiments. Neither did he do so. In as far as he came into contact with the Lost experiments, he only forwarded correspondence and did subordinate administrative work, which had no decisive or important influence on the experiments carried out by Dr. Hirt.

5. The knowledge that the experiments could exceed certain limits or become inhuman existed neither before they began nor in the course of the experiments.

We still have to examine whether Sievers did not receive, through some report or other, more exact knowledge of the course of the experiments. As a result of the experiments carried out by Dr. Hirt and Dr. Wimmer, the "Proposed Treatment of Poison-Gas Injuries Caused by Lost" was produced. (*NO–099, Pros. Ex. 268.*) From this report nothing at all is to be learned of the course of the experiments in its effect on the experimental subjects. Since no further report exists, the correctness of Sievers' statement must be accepted, according to which he knew no more of the Lost experiments than what he had seen and heard himself at Natzweiler. There was nothing in that to make him believe in criminal experiments.

This must also form the basis for the judging of Documents NO–195 and NO–015, Prosecution Exhibits 266 and 275. Sievers could only give information on what he knew. By virtue of his own observation of the information which he had received from Dr. Hirt and the correspondence submitted here, Sievers could only give information on the subject of the experiments carried out by Dr. Hirt and the circumstances under which they were carried out. It is also quite absurd to suppose that anyone who himself had detailed knowledge of the course of the experiments would have been used to pass on informa-

tion. In his letter to Dr. Rudolf Brandt of 11 April 1944, Sievers further stated that on 31 March he had given a report to SS Brigadefuehrer Professor Dr. Brandt on the research work of SS Hauptsturmfuehrer Professor Dr. Hirt. The contents of this so-called report were reproduced by Dr. Karl Brandt in his examination on 4 November 1947. According to that, Sievers only stated that he had been commissioned by order of Himmler to hand over to him the final report on Lost by Dr. Hirt. But Sievers said nothing about being commissioned to discuss the contents with Dr. Karl Brandt. No discussion took place between Dr. Karl Brandt and Sievers on the performance of the experiments. This was the "report" from which the prosecution believes it can draw the conclusion that Sievers had detailed knowledge of the Lost experiments. (*German Tr. pp. 2365–66.*)

The question still arises, whether Sievers, as a result of the report made by Hirt on 8 March 1944 to the Reich Leader SS, was not aware of deaths in connection with the Lost experiments. Hirt's report did not disclose anything from which one could conclude that a special endangering of the experimental subjects was involved. Moreover Hirt declared that he could arrive at further results only through experiments on animals. (*German Tr. p. 5734.*)

Finally, an opinion is expressed in regard to the possible assertion of the prosecution that the application of intravital microscopy constituted a crime against humanity. The intravital miscroscope used by Dr. Hirt could only be used on animals. (*Tr. p. 5734.*) Letter from the firm of Zeiss of 13 January 1947. (*Sievers 9, Sievers Ex. 10; Tr. p. 5879; Sievers 55, Sievers Ex. 51.*) That intravital microscopic experiments were carried out on human beings by Dr. Hirt was not testified to by any of the witnesses and also cannot be seen from any document. If this had been the case, it certainly would have become known to third parties through experimental subjects or records.

6. Sievers had neither the power nor the opportunity to prevent the Lost experiments or to stop them. Sievers could in no way hinder the course of experiments against Himmler's order.

7. Under these circumstances Sievers could not have become guilty of criminal negligence either.

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d. Evidence

Prosecution Documents

Doc. No.	Pros. Ex. No.	Description of Document	Page
NO–794	259	Letter from Sievers to Rudolf Brandt, 27 June 1942, concerning mustard gas and its effect on human beings.	336
NO–098	263	Memorandum from Sievers to Rudolf Brandt, 3 November 1942, concerning research in the Natzweiler concentration camp.	337
NO–193	264	Letter from Sievers to Rudolf Brandt, 22 April 1943, regarding prevention of Dr. Wimmer's transfer to active duty with the air force.	340
NO–099	268	Report by Hirt and Wimmer on the proposed treatment of poisoning caused by Lost gas.	341
NO–005	279	Letter from Grawitz to Himmler, 22 November 1944, requesting prisoners for experiments.	344
NO–1852	456	Extract from report on medical experiments addressed to Karl Brandt.	345
NO–978	480	Letter from Sievers to Gluecks, 11 September 1942, concerning military scientific research work to be conducted at Natzweiler concentration camp.	349

Defense Documents

Doc. No.	Def. Ex. No.	Description of Document	Page
Karl Brandt 12	Karl Brandt Ex. 11	Affidavit of Dr. Walther Schieber on his efforts to purchase experimental animals in Spain and bring them to Germany.	350
Karl Brandt 101	Karl Brandt Ex. 41	Affidavit of Dr. Otto Ambros, 21 April 1947, concerning the urgency of experiments in the field of chemical-warfare agents and their countermeasures.	351
Karl Brandt 103	Karl Brandt Ex. 42	Affidavit of Dr. Walter Mielenz, 21 April 1947, concerning the assignment of Karl Brandt in connection with chemical warfare.	352

TRANSLATION OF DOCUMENT NO–794
PROSECUTION EXHIBIT 259

LETTER FROM SIEVERS TO RUDOLF BRANDT, 27 JUNE 1942, CONCERNING MUSTARD GAS AND ITS EFFECT ON HUMAN BEINGS

The Ahnenerbe
The Reich Business Manager

Berlin–Dahlem, 27 June 1942
G/H/6, g/Sch/4, A/1/101 S/wo

To: SS Obersturmbannfuehrer Dr. R. Brandt
Personal Staff of the Reich Leader SS
Berlin

Subject: Use of mustard gas for exterminating rats.
Re: Your letter of 13 July 1942—A 19/95/1942

Dear Comrade Brandt!

On request SS Hauptsturmfuehrer Prof. Dr. Hirt, Strasbourg tells me:

"Mustard gas in a dilution of 1:100 is dangerous to human beings if it contacts the body in an adequate amount. Above all, mustard gas is dangerously effective to clothing, as is known, even when greatly diluted, especially in connection with dampness. Mustard gas touching the skin even in a dilution of 1:100 causes reddening, possibly it causes little cysts without effecting necrosis. That is, the effect is much weaker than that of pure mustard gas. In spite of that, coming in contact with the clothes in sufficient quantities, especially in the regions of perspiration as the armpit, or the inguinal region, it can have exactly the same effect as concentrated mustard gas. For this, only a trace of it is frequently sufficient. This I experienced in a laboratory accident with a chemical student, who touched his armpit with one of the rabbits only for a second and a reddening ensued which spread over the entire body the following day, however, without further consequences. In my opinion, only a place which can be temporarily evacuated by human inhabitants can be used for gassing. The use of mustard gas in the vicinity of food stores, especially grain dumps, has to be absolutely excluded because one cannot know to what extent the rats carry the mustard gas there. Only gassing of rat holes would be possible with full application of precautionary measures. How this will work out technically, I cannot of course determine. Proper experts would have to judge that. Probably the case may be the same as with other poisons used for the extermination of rats (Phosphor-arsenic, strychnine, etc.)—that means that the use of every type of poison has two sides. In spite of this, your idea to try the extermination of vermin by means of poison gas does not

seem strange at all, but an expert on poison gas would have to determine if there are not other means of killing rats which are less harmful to human beings."

With kind regards

Heil Hitler!

[Signature] SIEVERS

P. S. I shall talk over this matter thoroughly with Professor Hirt one of these days, and I will see which poison gas expert we might consult for the solution of the problem.

TRANSLATION OF DOCUMENT NO–098
PROSECUTION EXHIBIT 263

MEMORANDUM FROM SIEVERS TO RUDOLF BRANDT, 3 NOVEMBER 1942, CONCERNING RESEARCH IN THE NATZWEILER CONCENTRATION CAMP

The Ahnenerbe
Reich Business Manager

Berlin-Dahlem, 3 November 1942
S/Wo G/H/6

Personal Staff Reich Leader SS [Filing stamp]
File Room Document No. Secret/51/16 [shorthand notation]

Note

Re: Research order SS Hauptsturmfuehrer, Professor Dr. August Hirt, Strasbourg, at the Institute for Military Scientific Research of the Ahnenerbe.

The Reich Leader SS [Himmler] ordered, in his letter of 13 July 1942—Journal number AR/48/7/42—that SS Hauptsturmfuehrer Prof. Dr. Hirt carry out the research tasks assigned him, in conjunction with the Natzweiler concentration camp. It was determined at a conference, for which I drove, along with SS Hauptsturmfuehrer Prof. Dr. Hirt, to Natzweiler on 31 August 1942, that the necessary conditions exist in Natzweiler. I reported on this orally on 9 September 1942, and afterwards in writing on 11 September 1942 to SS Brigadefuehrer Gluecks, who agreed and promised his full support. In view of the urgency of these research tasks, I asked SS Hauptsturmfuehrer Professor Dr. Hirt to go to Natzweiler again because until then no report on the beginning of the work had arrived. SS Hauptsturmfuehrer Prof. Dr. Hirt reported the following, among other things, concerning this conference which took place at Natzweiler on 19 October 1942:

"The conference was due to the fact that until now nothing besides

the detachment of Oberscharfuehrer Walbert had been accomplished. Nor had the installation of the laboratories been started to date.

"It has now been decided to start with the laboratories this week.

"It was further established that the camp for security suspects, Schirmeck, would erect the sheds. Its commander fortunately is ready, as he told us at once, to place the necessary people at our disposal free of charge; whereas Natzweiler would not have been in a position to do so owing to the overbearing and inconvenient demands of the workers.

"We were furthermore informed that the prisoners who would later be used for experiments would have to be paid for by us during the period that experiments were being made upon them.

"We are to request that the prisoners of the Lost experiment receive full rations (food for guards) to enable the experiments to be carried out under the same conditions as the troops would be under in a possible emergency. We intend for the time being to take 10 prisoners as subjects for experiments.

"Hauptsturmfuehrer Dr. Blanke said that he was refused the assistance of a second physician in supervising the experiments on patients, so that he probably would not have enough time to concern himself with the experiments.

"The X-ray apparatus which I could procure here has not yet been definitely allocated by Berlin. We must get it immediately, otherwise we may lose it.

"The installation of direct current causes difficulties. One, however, gets the impression that the building operators had not dealt with this problem at all. According to their opinion, a transformer should be procured which is able to transform 220 volts alternating current into direct current. This is most likely quite improbable at this place.

"To equip the laboratory, I would ship the needed things (freezing microtome, incubators, etc.) from the stocks of the Anatomical Institute to Natzweiler during the next week. They remain, of course, the property of the Anatomical Institute. The two prisoners trained in handling the microtome can then be put to work. According to Hauptsturmfuehrer Dr. Blanke, both should be proficient at it."

On the basis of this report, I have the impression that not too much interest in cooperative work exists at Natzweiler. As such cooperation is ordered by the Reich Leader SS and as SS Brigadefuehrer Gluecks is willing, the whole thing is not understandable to me. I was very much surprised by the fact that the prisoners to be used for experiments should be paid for. If we use only 10 prisoners for one experiment, which might under certain circumstances last 10 months, the cost for the prisoners alone would total approximately 4,000 RM. When I think of our military research work conducted at the concentration camp Dachau, I must praise and call special attention to the generous and understanding way in which our work was furthered there and to the cooperation we were given. Payment of [for] prisoners was never discussed. It seems as if at Natzweiler they are trying to make as much money as possible out of this matter. We are not conducting these experiments, as a matter of fact, for the sake of some fixed scientific idea, but to be of practical help to the armed forces and beyond that to the German people in a possible emergency. The budget of the institute will be met, according to the order of the Reich Leader of the SS and as already discussed by me in detail with SS Standartenfuehrer Loerner, out of the funds of the Waffen SS.

Under the supposition that the prisoners needed for experiments are in the prescribed condition as regards nourishment by this time, the experiments could start approximately on 10 November 1942.

Special treatment in Dachau was never the subject of special instructions but was understood to be necessary and issued without further ado. On the occasion of his personal inspection of the experiments at Dachau, the Reich Leader SS also ordered special food as an additional measure. Just as the Reich Leader SS appeared one day at Dachau to have a look at the experiments there, this is possible at Natzweiler too.

[Signature] Sievers
SS Obersturmbannfuehrer

1. To SS Obersturmbannfuehrer Dr. R. Brandt to read in reference to our discussion of today and with the request for help in comradely fashion in setting up the necessary conditions at Natzweiler.
2. Documents.

[Initials] SI

TRANSLATION OF DOCUMENT NO–193
PROSECUTION EXHIBIT 264

LETTER FROM SIEVERS TO RUDOLF BRANDT, 22 APRIL 1943, REGARDING PREVENTION OF DR. WIMMER'S TRANSFER TO ACTIVE DUTY WITH THE AIR FORCE

Copy

Ahnenerbe Society
The Reich Business Manager

Berlin–Dahlem, 22 April 43
G/H/6 S/No

Note [Handwritten]
Some information on W. is also in the files of Prof. Hirt
Diary No. 41/8/43
G.Mue.

To: SS Obersturmbannfuehrer Dr. R. Brandt
Personal Staff Reich Leader SS
Berlin SW 11, Prinz Albrecht Str. 8.

Subject: Dr. med. habil. Karl Wimmer, born on 24 October 1910, staff physician of the Luftwaffe, commanded by Air Gau Physician 7, Munich, for service with the Anatomical Institute of Strasbourg University. Co-worker at the Institute for Military Scientific Research of the Ahnenerbe Society, Department SS Hauptsturmfuehrer Dr. Hirt, Strasbourg.

Re: Your letter of 10. 42. No. AR/48/7/42.
Our letter of 25. 7. 42.

Dear Comrade Brandt!

Effective immediately, Dr. Wimmer has been transferred to the XIth Fliegerkorps [subordinate operational Command of an Air Fleet], and according to information given by the Air Gau Medical Department 7 was to report today to Oberstabsarzt Dr. Jaeger, Berlin-Tempelhof, Manfred von Richthofenstr. 6/II. As Jaeger is going to be absent until 27 April, Dr. Wimmer will have to wait for a decision until that date. The transfer of Dr. Wimmer means discontinuance of the gas experiments at Natzweiler and Strasbourg, as—

1. Replacement cannot be supplied due to the specialized knowledge necessary.

2. The practical knowledge gained by Dr. Wimmer through an extensive series of experiments can only be used by him.

3. On Dr. Wimmer's leaving, SS Hauptsturmfueherer Prof. Dr. Hirt will have to take over his lectures and as he, considering his state

of health, is already more than overworked, he can no longer go on with research work.

Interim report on experiment results up to now will follow next week to be submitted to the Reich Leader SS. The intensification of experiments and research, as well as the continuation of the work at all, as ordered by the Reich Leader SS on the basis of our discussion on 7 April, is out of the question, if the small staff of co-workers at the disposal of Prof. Dr. Hirt, especially Dr. Wimmer, is withdrawn. The problems to be solved constantly demand scientists with long years of experience and specialized knowledge. Dr. Wimmer would now be employed only as an army doctor, which is totally uneconomical considering his knowledge and abilities, as his services as an army doctor will never be of vital importance as regards the war, while this may well be said of his scientific activities. Obviously the Recruiting Office of the Waffen SS at that time contented itself with the information of the Reich Air Minister and Supreme Commander of the German Luftwaffe, without concluding a definite agreement. I request immediate steps for this to be remedied; the best would be to order Dr. Wimmer to the Waffen SS at least until 31.13.43 [sic] and if necessary the Reichsarzt SS should send an army doctor in his place to the Luftwaffe for the time Dr. Wimmer is assigned to the Waffen SS.

With best regards

Heil Hitler!

Yours

[Signed] SIEVERS [typewritten]

TRANSLATION OF DOCUMENT NO–099
PROSECUTION EXHIBIT 268

REPORT BY HIRT AND WIMMER ON THE PROPOSED TREATMENT OF POISONING CAUSED BY LOST GAS

Top Secret

[Handwritten] Enclosure of Top Secret Z. I. A. H. No. 36
G. Tgb. S. 19, No. 170

From the Institute for Military Scientific Research Department H of the Research and Instruction Society Ahnenerbe (Reich Leader SS Personal Staff, Office "A") Strasbourg, Anatomical Institute.

Proposed treatment of poisoning caused by Lost [Gas]

(By Professor Dr. A. Hirt, and Staff Surgeon of the Luftwaffe, Professor Dr. Wimmer, Strasbourg, 1944)

General Observations

The effect of Lost as a poison gas is immediate and, by causing other pathological reactions within the cells and organs, it damages the entire

efficiency of the individual cell as well as that of the organs. The organism stands the best chance of absorbing the damage caused by Lost if there is a large vitamin reserve in the body. In administering the vitamin treatment after Lost damage has been inflicted, care must be taken that the medicaments are not administered indiscriminately. The vitamin combinations (A, B complex, C) taken orally or vitamin B_1 administered intravenously in glucose suspension have proved most effective. Both methods aim at raising the resistance of the reticuloendothelial system, while simultaneously introducing therapeutic measures to protect the liver which can be further strengthened by food with a high carbohydrate and vitamin content. When definite damage to the organs (liver, cardiac muscles, kidneys) manifests itself, vitamin treatment has to be discontinued and injections of B_1 glucose substituted, as the excretion of the surplus quantity of vitamins results in a temporary additional overstimulation of the cells of the excretory organs.

In addition the inter-connection between the effect of sulfanilamide and vitamin B complex should be noted. In the case of pulmonary complications (bronchial pneumonia, pulmonary abscess) which are treated with sulfanilamides, the administration of yeast is definitely not indicated.

The general treatment, as set forth, especially the administration of vitamin B_1 glucose, also has a salutory effect on the healing of cutaneous necrosis. In average and serious cases, the length of the healing process can thereby be considerably decreased. Supporting measures to be taken are bandaging the affected limb in splints until the appearance of clean granulation or placing the patient in a suitable recumbent position as well as vigorous, systematic psychotherapy. The psychological influencing of the largely apathetic Lost patient constitutes an essential part of the treatment, due to the possibility of thereby influencing the parasympathetic system (circulation, circulatory system).

Outline of treatment

1. All the directions given for the elimination of the Lost poison are to be followed carefully. Only *after* elimination of the poison has resulted may Lost patients be treated and accommodated together in enclosed rooms. (Inhalation of Lost vapors!)

2. Damp dressings with Rivanol (0.1–0.05 percent) and Trypaflavin (0.1 percent) have proved to be a successful treatment of the *skin symptoms* (reddening, swelling, blisters) of the first to fourth day. If necessary, ointment dressings (10 percent cod liver oil tannic ointment, boric acid ointment, etc.) may be applied. With the opening of the blisters, the exposed corium of the skin becomes extremely sensitive to the drying reflex. Introductory treatment; daily bathing with a

potassium permanganate solution, constant damp dressings of Rivanol-Trypaflavin solution; later on ointment dressings (5 percent cod liver oil tannic ointment, boric acid ointment). With the development of *cutaneous necrosis* and increasing disinfection of the affected parts of the skin, the damp dressings are to be substituted—if only for nursing reasons—by ointment dressings, after bathing with a potassium permanganate solution at body temperature, which are to be changed daily. Usually after the 17th day, the necrotic spots on the skin can be removed by drying them up or better still by brushing them off (under narcosis if necessary) with a potassium permanganate solution. In this way the local healing process is considerably shortened.

With the beginning of the knitting of the skin granulation stimulating ointment dressings (alternately cod liver oil ointment, boric acid ointment, unguentine, etc.) are sufficient. Lexer's cod liver ointment (only 2 hours, painful!) can provide a strong *stimulus* should granulation formation be slow and drag itself out.

3. General treatment of average and serious Lost damage begins with administering a vitamin mixture compounded as follows:

Vitamin A (in the form of Vogane oil) increasing from 4 to 10 drops daily.

Vitamin C (Cantan—Cebion tablets) 2 tablets 3 times daily.

Yeast powder 3 teaspoonfuls daily.

One should consider whether a vitamin compound of similar preparation—if need be with the addition of glucose—should be produced for the combat troops. Such a powder mixture would have to be administered in increasing quantities as well. In all cases of absorbed Lost damage (liver damage indicated by increased secretion of urobilinogen in the urine, later icteric skin coloring, cardiac muscle damage with tachycardiacs, kidney damage with albumin secretion in the urine) treatment with vitamin mixtures is to be discontinued and to be substituted by injections of vitamin B_1 glucose. (Betaxin—Betabion 2 cc.—also in larger dosages—intravenously with 10 cc. 20 percent glucose solution.) Injections are to be given slowly, since at the height of Lost damage the veins of the arms incline to thrombosis! In the latter case glucose has to be administered orally and vitamin B_1 intramuscularly. There exists the possibility, in every case of considerable Lost damage, of a sudden failure of circulation (frequently between the 7th and 17th day) indicated by a weak response to heart and circulatory stimulants. Heart stimulants (strophanthin, caffeine, digitalis) and circulatory stimulants (sympatol, priscol, camphor, cardiazol) have therefore to be administered with care in serious cases. The therapeutic routine valid for all clinical treatment is particularly valid for cases of organic damage.

TRANSLATION OF DOCUMENT NO–005
PROSECUTION EXHIBIT 279

LETTER FROM GRAWITZ TO HIMMLER, 22 NOVEMBER 1944, REQUESTING PRISONERS FOR EXPERIMENTS

The Reich Leader SS
Reich Physician SS and Police
Diary No. 39/44 Top Secret

Berlin W. 15, 22 November 1944
Knesebeckstrasse 50/51
Telephone: 924249.924374.924351.924406.

Top Secret

Subject: Experiment with N-substance.
Reference: Order of Reich Leader SS of 15 May 1944

2 copies, 1st copy

To: Reich Leader SS H. Himmler
Field H. Q.

Reich Leader:

The Chief of the Technical Office in the SS Administrative Main Office, SS Gruppenfuehrer Schwab, contacted me in September of this year with the request to furnish him with two doctors, who as medical experts were to witness experiments with N-substance, which he was carrying out at the time by order of the Fuehrer. This was above all a matter of the clarification of the question whether N-substance was to be considered for chemical warfare or not.

For this purpose I have furnished my leading pathologist, SS Hauptsturmfuehrer University Teacher Dr. Sachs, as well as the doctor working on the Ahnenerbe, SS Hauptsturmfuehrer University Teacher Dr. Ploetner.

In accordance with the experiments carried out on 25 September 1944, the necessity has now arisen to carry out several experiments on human beings for the final clarification of the physiological effect of N-substance on and through the human skin. Five prisoners are necessary for the execution of these experiments. It is highly improbable that the experiments will cause any permanent damage.

In accordance with your order of 15 May 1944, Reich Leader, I have obtained the opinion of SS Gruppenfuehrer Professor Gebhardt, SS Gruppenfuehrer Gluecks, and SS Oberfuehrer Panzinger. They read as follows:

1. SS Gruppenfuehrer Professor Dr. Gebhardt

"I am certainly in agreement with suggestion, and request that

the directions for the supervision of the experiments be issued directly by the Reich Physician SS and Police."

2. SS Gruppenfuehrer Gluecks

"I have received your letter of 7 November 1944 with regard to the procurement of five prisoners for the experiments which are to be carried out with N-substance.

"For this purpose I have had five prisoners in the Sachsenhausen concentration camp who have been condemned to death placed in readiness, on whom these experiments can be carried out."

3. SS Oberfuehrer Panzinger

"From the point of view of the criminal police the experiments to be carried out there are to be welcomed. Therefore, no misgivings exist against the handing over of prisoners for inoculation.

"If political prisoners should be considered, the Chief of Office IV, SS Gruppenfuehrer Mueller would still have to be consulted, but he will certainly also grant permission."

I respectfully request the permission so that the experiments can be initiated.

Heil Hitler!
[Signed] GRAWITZ

[stamp]
Personal Staff of Reich Leader SS
Received: 26 November 1944
No. 1991/44

TRANSLATION OF DOCUMENT NO–1852
PROSECUTION EXHIBIT 456

EXTRACT FROM REPORT ON MEDICAL EXPERIMENTS ADDRESSED TO KARL BRANDT

Contents

Report. (2d copy)
2 and 3 Phosgene experiments Ruehl
4 and 5 T-experiments Letz
6 Aerosol experiment Letz
7 Natzweiler (3d copy)

6. 1st copy
7. 1st copy

* * * * * * *

Top Secret

3 copies—3d copy

To the
Fuehrer's Plenipotentiary General
for Health and Medical Services,
Surgeon-General Professor Dr. Brandt,
Berlin Ziegelstrasse 5/9
Surgical Clinic at the University

7th Report

On the protective effect of hexamethylentetramine in phosgene poisoning.

Experiments were carried out on 40 prisoners on the prophylactic effect of hexamethylentetramine in cases of phosgene poisoning. Twelve of those were protected orally, twenty intravenously, and eight were used as controls.

The method

The chamber has a capacity of 20 cbm. In experiments I to XIV the chamber was given a coat of paint which had a strong deteriorating effect on phosgene. This decrease in concentration was measured after experiment XI; the curves are shown on chart I [not reproduced].

The greatest decrease measured was taken as basis for the calculations of the average concentration for experiments I to XI. In experiments XII to XV, the initial concentration and its decrease were measured separately in each case. In the tables II and III, c_o stands for the quantity of phosgene infused into the chamber in mg/cbm, c_m for the calculated average concentration, t for the time of reaction. c_m was measured as an arithmetic medium from 5 to 7 and calculated on the curve values obtained through interpolation.

B. The experimental subjects were all persons of middle age, almost all in a weak and underfed condition. On principle, the healthier ones were used as controls, only control number 39 (J. Rei) and the orally protected experimental subject No. 37 (A. Rei) had a localized cirrhotic productive tuberculosis of the lungs. With the others, no pulmonary disease could be found. In the first experiments up to 6g hexamethylentetramine were given orally, later despite the much higher concentrations 0.06 g/ kg body weight, orally as well as intravenously.

Results

The intravenously protected experimental subjects, without exception, all survived the phosgene poisoning with a c. t. of 247 to 5,400.

There were no symptoms of pulmonary oedema after intravenous protection even with a c. t. of 2,970. Only experiment No. 10 with a c. t. of 3,960 suffered pulmonary oedema of the first degree, which was overcome without any therapy and in experiment No. XIV the intravenous protection was penetrated to an extent to cause pulmonary oedema of the 3d degree, which however was overcome by oxygen inhalation. The experimental subject recovered.

All control subjects fell ill. With a c. t. of 768 and 1,180 a first degree pulmonary oedema resulted which was overcome. With a c. t. of 2,275, one control subject died, the second contracted a second degree pulmonary oedema but recovered. A c. t. of 5,400 killed one control subject after 4 hours, the other after 14 hours.

After oral protection, a c. t. of 247 to 768 was suffered without any oedema, even when the protective solution of hexamethylentetramine was drunk only 2–3 minutes before the inhalation of the phosgene. Two control subjects showed a marked oedema with a c. t. of 768. With a c. t. of 1,485 one protected subject fell seriously ill with a second degree oedema, a second subject likewise protected, having breathed the same phosgenic air, was unaffected. The cause of this striking difference must be sought in the different resorption of the hexamethylentetramine on the one hand and in the different reaction and the different volume of respiration of the experimental subjects on the other hand.

Even a c. t. of 2,275 resulted in only a slight pulmonary oedema in an orally protected test subject, whereas one control subject died after 4 hours, and a second contracted a second degree pulmonary oedema. The oral protection was penetrated by a c. t. of 5,400, the protected test subject died, as did the two control subjects.

Experiment XV is characteristic of the test schedule and its results, and will therefore again be specially described. Of four test subjects, the first was protected orally, the second intravenously, the third received an intravenous injection of hexamethylentetramine after the poisoning, in order once more to ascertain the effect of therapeutic treatment, the fourth was not treated at all. The four subjects were placed in the chamber in which a phial containing 2.7 grams of phosgene was smashed. The test subjects remained in this concentration for 25 minutes. The phosgene content was measured three times during the inhalation. The readings showed an average concentration of 91 mg. per cbm. The subject protected intravenously remained healthy, and did not show the least signs of difficulties or symptoms, the orally protected subject contracted a slight pulmonary oedema, subsequently bronchopneumonia and pleurisy, from which he recov-

ered. One control subject also survived his pulmonary oedema; the second died a few hours later, and the autopsy showed the characteristics of very serious pulmonary oedema.

Summary

The conclusions of the experiment are impaired by the varying constitutions and the general poor state of nutrition and of physique of the experimental subjects, as well as by the different behavior and the different volume of respiration of the experimental subjects under gas, which was here demonstrated for the first time. But the experiments gave the following decisive conclusions:

1. A previous intravenous injection of 3 grams of hexamethylentetramine completely prevents serious toxic and fatal phosgene poisoning from a c. t. of 2,275.

2. An endurable quantity of hexamethylentetramine taken prophylactically weakens a fatal poisoning to such an extent that it can be overcome without treatment. c. t.=2,275.

3. Nonfatal but nevertheless oedema-producing poisonings are made positively ineffective by intravenous application, and are weakened by oral application. c. t. 250 to 1,980.

4. The oral application of hexamethylentetramine is no longer effective against phosgene poisoning of a c. t.=5,400, the intravenous injection, however, weakens the effect to such an extent that the protected subject is able to overcome a lung oedema.

5. The *dosis letalis minima* (minimum lethal dose) based on these experiments cannot yet be determined with certainty. One c. t. of 2,275 resulted in the death of one experimental subject, and the second developed second degree oedema of the lungs which was cured.

6. Some of the protected experimental subjects who did not develop oedema of the lungs remained completely healthy, others suffered from slight bronchitis with a brief fever. In every case they recovered without treatment.

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TRANSLATION OF DOCUMENT NO–978
PROSECUTION EXHIBIT 480

LETTER FROM SIEVERS TO GLUECKS, 11 SEPTEMBER 1942, CONCERNING MILITARY SCIENTIFIC RESEARCH WORK TO BE CONDUCTED AT NATZWEILER CONCENTRATION CAMP

The Reich Leader SS
Personal Staff
The Chief of the Office Ahnenerbe

Berlin-Dahlem, 11 September 42
Puecklerstr. 16

[handwritten] secret
G/W/12

To: SS Brigadefuehrer Gluecks
Berlin-Oranienburg

Subject: Military Scientific Research in Connection with the Natzweiler Concentration Camp.
Reference: Personal discussion of the 9th inst.

Brigadefuehrer,

Based on my report that, as proposed by the Reich Leader SS, there is a good possibility for carrying out our military scientific research work in the Natzweiler concentration camp, I hereby summarize what awaits your approval:

1. Information to the commander's office, Natzweiler concentration camp: SS Hauptsturmfuehrer Professor Dr. Hirt, Stabsarzt Dr. Wimmer, and Dr. Kieselbach are authorized to enter the Natzweiler concentration camp. During their activity in the Natzweiler concentration camp, they are to be provided with accommodations and board.

2. SS Oberscharfuehrer Walbert, at present supply sergeant in the administration of the Natzweiler concentration camp, is to be detached for service with the Institute for Military Scientific Research, Personal Staff Reich Leader SS, Strasbourg-Natzweiler section. Walbert will have to tend the animals under the supervision of SS Hauptsturmfuehrer Professor Dr. Hirt. It is requested that another man be assigned to the administration of the Natzweiler concentration camp in order to replace SS Oberscharfuehrer Walbert.

3. The transfer of two prisoners from the group which has been trained on the microtome for pathological research in the Buchenwald concentration camp is requested.

4. It is furthermore requested, that a younger physician be assigned to assist the camp medical officer, SS Hauptsturmfuehrer Dr. Blanke, in the Natzweiler concentration camp.

5. The experiments which are to be performed on prisoners are to be carried out in four rooms of an already existing medical barrack. Only slight changes in the construction of the building are required, in particular the installation of the hood which can be produced with very little material. In accordance with attached plan of the construction management at Natzweiler, I request that necessary orders be issued to same to carry out the reconstruction.

6. All the expenses arising out of our activity at Natzweiler will be covered by this office. I have already discussed the accounting procedure with the administrative leader, SS Obersturmfuehrer Faschingbauer.

In conclusion I would be very grateful to you, my dear Brigadefuehrer, if you would inform the commander of the Natzweiler concentration camp, that you have approved the execution of the work at Natzweiler, just as it was discussed with me there, and about which I reported to you in detail, and that you desire that we be given assistance in fulfilling the duties with which we have been entrusted by the Reich Leader SS.

Heil Hitler!
[Signed] SIEVERS
SS Obersturmbannfuehrer

2. To SS Hauptsturmfuehrer Prof. Dr. Hirt

TRANSLATION OF DOCUMENT KARL BRANDT 12
KARL BRANDT DEFENSE EXHIBIT 11

AFFIDAVIT OF DR. WALTHER SCHIEBER ON HIS EFFORTS TO PURCHASE EXPERIMENTAL ANIMALS IN SPAIN AND BRING THEM TO GERMANY

Affidavit III

I, Dr. Walther Schieber, at present in Nuernberg, Justice Prison, have been duly warned that I am liable to punishment if I make a false statement. I affirm under oath that my deposition corresponds to the truth and was made to be offered in evidence before Military Tribunal No. I at the Palace of Justice, at Nuernberg, Germany. During the summer of 1944, Professor Karl Brandt informed me during discussions concerning the execution of the especially urgently operated Brandt—and defense—program against chemical warfare agents that he was having considerable difficulties in procuring animals which were needed for test purposes concerning the effect of the top chemical warfare agents and for which he had requests from testing office.

At that time the problem was how to convert the production of chemical warfare agents on account of raw material shortage to the

production of the top chemical warfare agent Sarin, the effect of which would not yet be finally determined.

To carry out these tests, an action to procure animals was started by me in Spain, instigated by Professor Karl Brandt; because of the biological reaction parallels to human beings, apes resembling men were allegedly needed. An assistant was sent there especially for this purpose. For this, the armament office offered approximately 200,000 Swiss francs, and after my resignation as Chief of the Armament Supply Office in October 1944 from the Speer Ministry I made strenuous efforts, together with Professor Karl Brandt, to have a large number of animals brought by extremely difficult air transportation from Spain to Germany. These were put at Professor Karl Brandt's disposal for the testing offices.

[Signed] WALTHER SCHIEBER

TRANSLATION OF DOCUMENT KARL BRANDT 101 KARL BRANDT DEFENSE EXHIBIT 41

AFFIDAVIT OF DR. OTTO AMBROS,* 21 APRIL 1947, CONCERNING THE URGENCY OF EXPERIMENTS IN THE FIELD OF CHEMICAL WARFARE AGENTS AND THEIR COUNTERMEASURES

I, Dr. Otto Ambros, at present in Nuernberg, Justice Prison, having been duly informed that I shall render myself punishable if I submit a false affidavit, declare under oath that my statement is true and was made for presentation in evidence to Military Tribunal No. I in the Palace of Justice, Nuernberg, Germany.

During the war I was a director of I. G. Farben and had to work on chemical warfare agents and protective agents, and can therefore state the following:

I got into touch with Professor Dr. Karl Brandt during 1944. On that occasion Professor Brandt told me he had to take an interest in chemical warfare agents and countermeasures. At the same time he showed me a letter from Adolf Hitler referring to this subject. Furthermore, he stated that he did not understand very much about chemical warfare, as he was not an analytical chemist. His primary concern in this field was the question of the supply of materials for gas masks, i. e., activated charcoal and the synthetic materials and textiles which are necessary for these.

Professor Brandt visited two poison gas plants at Dyherrnfurth and Gendorf, to become generally acquainted with the nature of poison gas itself.

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*Defendant in case of United States *vs.* Carl Krauch, et al. See Vols. VII and VIII.

There was the greatest uneasiness at that time regarding protection against chemical warfare, as it was thought that the Allies would use poison gas. It was said that they had brought poison gas over with them when they landed at Tunis.

It was also said that the Russians had new gas masks which fact pointed to the possibility of the use of a new kind of poison gas.

On the German side, there was definitely a serious shortage of chemical warfare protective equipment, as not even the most urgently needed gas masks were available, nor was it even possible to produce the required number.

Nuernberg, 21 April 1947.

[Signature] Dr. Otto Ambros

TRANSLATION OF DOCUMENT KARL BRANDT 103
KARL BRANDT DEFENSE EXHIBIT 42

AFFIDAVIT OF DR. WALTER MIELENZ, 21 APRIL 1947, CONCERNING THE ASSIGNMENT OF KARL BRANDT IN CONNECTION WITH CHEMICAL WARFARE

I, Dr. Walter Mielenz, born 20 November 1888 in Berlin, residing in Berlin-Friedenau, Ceciliengaerten 45 (business address: Berlin-Lichterfelde W, Kadettenweg 67, Telephone 245218), have been duly advised that I shall render myself liable to punishment if I give a false affidavit. I declare under oath that my statement is true and was made to be submitted in evidence to Military Tribunal No. I, at the Palace of Justice, Nuernberg, Germany.

From 1933 to 1945 I worked at the Reich Air Ministry as an analytical chemist, technical advisor on the question of the protection of the civilian population against gas.

I am familiar with the decree of 1 March 1944 in which special tasks were assigned to Professor Dr. Karl Brandt in connection with chemical warfare. As far as I remember, the decree was worded approximately as follows:

> "I have ordered my Commissioner General for the Medical and Health Service (Professor Dr. Brandt) to take a major part in all matters concerning protection against chemical warfare (of the army and the civilian population) and to issue orders to the stations (military and civilian) established for this purpose. In questions of the protection of the civilian population against chemical warfare, he must obtain in advance the approval of the Reich Air Minister and Commander in Chief of the Luftwaffe."

The decree certainly did not contain any order for research in connection with chemical warfare agents.

The reason for the appointment of Professor Karl Brandt was the assumption that the initiation of chemical warfare by the enemy was shortly to be expected. This assumption was based on the fact that intelligence was accumulating, according to which gas was being prepared in large quantities by the enemy. Thus confidential agents reported that poison gas ammunition was being stored at Tunis and Dakar, and these reports were constantly being confirmed.

The greatest alarm was caused by the examination of captured Russian gas masks, which showed that they afforded protection against far stronger concentrations of poison gas than it had so far been believed possible to achieve at the front. Their protective capacity far surpassed that of the German Army and civilian gas masks. From this fact, it could be concluded that the scientists and technicians of the Red Army had succeeded in developing new and particularly effective methods of attack in chemical warfare for known or new chemical warfare agents.

The German measures for gas defense were totally inadequate in number, too. The civilian population in particular was exposed almost without defense to gas attacks because the issue of civilian and infants' gas masks in many town and country districts was seriously behind schedule. The relevant figures for civilian gas masks in the different supply areas were between 10 and 70 percent of the population to be equipped, the average figure being about 32 percent, and for infants' gas masks, about 7 percent. This estimate is based on the total number of civilian and infants' gas masks manufactured up to that date, in relation to the total number of persons entitled to supply. This estimate did not take into consideration the fact that, without doubt a large part of the equipment which, in some cases had been in the hands of the population for years, was no longer completely fit for use on account of faulty unsuitable storage, or had been rendered useless by air raid damage, evacuation of the owners, and other reasons, or lost completely. The losses in civilian gas masks were estimated at about 15,000,000 (almost 50 percent of the total output up to that date) so that for the completion of the initial equipment (without reserves) the manufacture of 45,000,000 gas masks had to be planned.

In view of these facts, Professor Dr. Karl Brandt was assigned the task of providing with the utmost speed for the improvement of gas defense to avert the danger which threatened.

Through the initiative of Professor Brandt, the gas defense program was finally given the highest priority and had an equal standing with the program for the construction of fighter planes and tanks.

I know that Professor Dr. Brandt was most strongly opposed to the propaganda demand spread by extreme Party circles for the initiation of chemical warfare by Germany.

I regularly had to work with Professor Karl Brandt on gas defense and I know that in view of their importance and urgency, he dispatched all matters himself. The Department of Science and Research and its chief, Professor Rostock, were not concerned with these matters.

The N-agent was not one of the chemical warfare agents. It is an incendiary agent composed of chlorine and fluorine (ClF_3); this N-agent has never been mentioned in connection with gas defense.

I know that there existed in the Armament Ministry a special commission for the decontamination of drinking water; this had neither been established by Professor Brandt nor was it under his command. The task of this commission was the production of decontamination equipment but not the development of such equipment, and especially not the development of new processes for the decontamination of water. The repeated suggestions made by Professor Haase in this context were therefore beyond the field of activity of the commission. They were discussed, however, at a meeting in December 1944, at which I was present.

At this meeting the representatives of the army and the air raid protection service stated that for their sphere, i. e., for the gas defense of the troops and the civilian population, there was no need to continue this work. Professor Brandt who was present at the meeting had already agreed in advance with the general opinion that the efforts of Haase did not admit of the expectation of any improvement on the experiences presented for consideration, and that they should therefore be rejected. He therefore asked me to work towards this end.

As far as I know, the commission was never concerned with seawater experiments. In particular, to my knowledge, the commission had no knowledge of human experiments for the testing of agents designed to render sea water potable.

I can state with certainty that the undertaking of gas experiments on human subjects was never spoken of by Professor Brandt and myself. Moreover, during discussions with army experts concerned with gas defense and chemical warfare, I never heard that Professor Brandt in any way suggested human experiments or otherwise spoke of such experiments.

Nuernberg, 21 April 1947

[Signature] Dr. Walter Mielenz

5. SULFANILAMIDE EXPERIMENTS

a. Introduction

The defendants, Karl Brandt, Handloser, Rostock, Schroeder, Genzken, Gebhardt, Blome, Rudolf Brandt, Mrugowsky, Poppendick, Becker-Freyseng, Oberheuser, and Fischer were charged with special

responsibility for and participation in criminal conduct involving sulfanilamide experiments (par. 6 (E) of the indictment). During the trial the prosecution withdrew this charge in the cases of Schroeder, Blome, and Becker-Freyseng. On this charge the defendants Karl Brandt, Handloser, Gebhardt, Mrugowsky, Oberheuser, and Fischer were convicted and the defendants Rostock, Genzken, and Poppendick were acquitted. Regarding the defendant Rudolf Brandt, the judgment makes no reference to this charge.

The prosecution's summation of the evidence on the sulfanilamide experiments is contained in its final brief against the defendant Gebhardt. An extract from that brief is set forth below on pages 355 to 364. A corresponding summation of the evidence by the defense on these experiments has been selected from the closing brief for the defendant Gebhardt. It appears below on pages 364 to 370. This argumentation is followed by selections from the evidence on pages 371 to 391.

b. Selection from the Argumentation of the Prosecution

EXTRACT FROM THE CLOSING BRIEF AGAINST DEFENDANT GEBHARDT

* * * * * * *

A. SULFANILAMIDE EXPERIMENTS

Experiments to test the effectiveness of sulfanilamide on infections were conducted in the Ravensbrueck concentration camp from 20 July 1942 until August 1943. These experiments were performed by the defendants Gebhardt, Fischer, and Oberheuser. (*NO–228, Pros. Ex. 206.*)

Gebhardt personally requested Himmler's permission to carry out the sulfanilamide experiments and their execution was his responsibility. (*Tr. pp. 4024–5.*) He himself carried out the initial operations. (*Tr. p. 4032.*)

The experimental subjects consisted of 15 male concentration camp inmates, who were used during the preliminary experiments in July 1942, and 60 Polish women who were experimented on in 5 groups of 12 subjects each.

The purpose of the experiments was stated in a preliminary report by Gebhardt dated 29 August 1942, in which he stated:

"By order of the Reich Leader SS, I started on 20 July 1942 at Ravensbrueck concentration camp for women on a series of clinical experiments with the aim of analyzing the sickness known as gas gangrene, which does not take a uniform course, and to test the efficacy of the known therapeutic medicaments.

"In addition, the simple infections of injuries which occur as symptoms in war surgery had also to be tested; and a new chemo-

therapeutic treatment, apart from the known surgical measures, had to be tried out." (*NO–2734, Pros. Ex. 473.*)

The sulfanilamide experiments, as substantially all of the experiments with which the case is concerned, were directly related to the German war effort. Allied propaganda about the "miracle drug" sulfanilamide was having considerable effect on the confidence of the German soldiers in their medical officers. Heavy casualties had been sustained from gas gangrene on the Russian front in the winter of 1941–42. The theoretical question to be answered by these experiments was whether the wounded should be treated surgically in the front line hospitals or should be treated by field medical officers with sulfanilamide and then sent down the long lines of communication to a base hospital for further treatment. (*Tr. pp. 4010–14.*)

The same report cited above states that the defendant Fischer was appointed by Gebhardt as his assistant; Dr. Blumenreuter, a subordinate of the defendant Genzken, made available the surgical instruments and medicines; the defendant Mrugowsky put his laboratory and co-workers at the disposal of Gebhardt; and Dr. Lolling, chief medical officer of all concentration camps, assigned Dr. Schiedlausky and the defendant Oberheuser as co-workers.

This preliminary report concerns itself with the early experiments on 15 male subjects to determine a mode of infection with gangrene. Gebhardt was assisted by the Hygiene Institute of the Waffen SS, which made available the bacteria and gave advice on the method of bringing about gangrene infection artificially. The experimental technique was described in the report as follows:

> "The point was to implant the lymph cultures on the damaged muscle tissue, to isolate the latter from atmospheric and humoral oxygen supply, and to subject it to internal tissue pressure. The inoculation procedure was as follows: a longitudinal cut of 10 centimetres over the musculus peroneus longus; after incision into the fascia the muscle was tied up with forceps in an area the size of a five-Mark piece; an anaemic peripheral zone was created by injection of 3 cc. adrenalin and in the area of the damaged muscle the inoculation material (a gauze strip saturated with bacteria) was imbedded under the fascia, subcutaneous adipose tissue and skin sutured in layers." (*NO–2734, Pros. Ex. 473.*)

In the first series of experiments the subjects were infected with staphylococci, streptococci, para oedema malignum, bacteria Fraenkel, and earth. The resulting infections were not considered serious enough, and a conference was held with the Hygiene Institute of the Waffen SS and the bacteria used in bringing about the infections were changed. Six additional male subjects were then infected, but again the results were not considered serious enough. After further con-

sultation with the collaborators in the Hygiene Institute of the Waffen SS, the infectious material was changed by adding wood shavings. During the course of these experiments the subjects were treated with various types of sulfanilamides, including catoxyn and marfanil-prontalbin, the latter being strongly recommended by the Army Medical Inspectorate. Efforts continued to make the gangrene infection more serious, and the report concluded with the following paragraph:

"We are now investigating the problem as to why the gangrene in the present cases did not fully develop. Therefore, the injuring of the tissue and the exclusion of a muscle from the circulation of the blood were undertaken during a separate operating session, *and the large-scale necrosis resulting therefrom was to be inoculated with bacteria strain which had already had one human passage.* For it is only when the really definite clinical picture of the gangrene has appeared that conclusions may be drawn on therapy with chemotherapeutics in connection with surgical operations." [Emphasis supplied.] (*NO–2734, Pros. Ex. 473.*)

This report was certified as a correct copy by the defendant Poppendick.

In his zealousness to protect his fellow defendants, Gebhardt testified that neither the Hygiene Institute of the Waffen SS nor the defendant Mrugowsky played any part in these experiments, and that the infectious material was sent to him by Grawitz. (*Tr. p. 4179.*) This is clearly contradicted by his own report cited above.

Following the conclusion of the preliminary experiments on the male prisoners, experiments were continued on female Polish inmates. The affidavit of the defendant Fischer states that three series of operations were performed, each involving 10 persons, one using the bacterial culture and fragments of wood, the second using bacterial culture and fragments of glass, and the third using culture plus glass and wood. (*NO–228, Pros. Ex. 206.*) These experiments were undertaken during the month of August 1942. While Fischer speaks of experimental groups of 10 persons each, the defendant Gebhardt testified that the groups were composed of 12 experimental subjects. (*Tr. p. 4056.*) On 3 September 1942, after 36 women had been experimented on, Reich Physician SS Grawitz visited Ravensbrueck and inspected the experimental subjects. He asked Gebhardt how many deaths had occurred, and when it was reported that there had been none, he stated that the experiments did not conform to battlefield conditions. (*NO–228, Pros. Ex. 206; Tr. p. 4057.*) In order to make the gangrene infections still more severe, a new series of experiments involving 24 Polish female inmates was carried out. In this series the circulation of blood through the muscles was interrupted in the area of infection by tying off the muscles on either end. This series

of experiments resulted in very serious infections and a number of deaths occurred. (*NO–228, Pros. Ex. 206.*)

Gebhardt, Fischer, and Oberheuser all admit that three of the experimental subjects died as a result of the experiments. (*NO–228, Pros. Ex. 206; Tr. pp. 4059, 5492.*) Other evidence, however, proves that five died as a direct result of the experiments and six were executed by shooting at a later date. (*Tr. pp. 1438, 1449, 797, 845, 863.*)

Four of the Polish women who were subjected to these experiments testified before the Tribunal. Most of the women who were used as subjects had been active in a resistance movement. (*Tr. pp. 787, 816, 840, 857.*) Only healthy inmates were used. (*Tr. pp. 786, 815, 836, 856, 860–1.*) None of them volunteered for the experiments. (*Tr. pp. 789, 819, 842, 844–5, 861.*) On the contrary, they protested against the experiments both orally and in writing. (*Tr. pp. 789, 794, 823–5.*) They stated that they would have preferred death to continued experiments, since they were convinced that they were to die in any event. (*Tr. pp. 795, 824, 863.*) They testified that 74 Polish women, 1 German, and 1 Ukrainian woman were experimented upon. (*Tr. pp. 1438, 796, 818, 862.*) Since Gebhardt placed the total number of Polish female experimental subjects in the sulfanilamide experiments at 60, the additional 16 women mentioned by the witnesses may well have been subjects in the bone, muscle, and nerve regeneration experiments. (*Tr. p. 1462.*)

The witness Kusmierczuk was one of the subjects in the sulfanilamide experiments. She is a Polish national and arrived in the Ravensbrueck concentration camp in the fall of 1941. (*Tr. p. 857.*) She was operated on in October 1942 and a severe infection developed in her case. (*Tr. p. 858.*) She remained in the hospital from October 1942 until April 1943, but her wound was still not healed at the time she was discharged from the hospital. Her condition deteriorated and she was readmitted to the hospital on 1 September 1943. (*Tr. p. 860.*) She left the hospital the second time in February 1944, but her wound did not finally heal until June 1944. (*Tr. p. 861.*) She identified the defendants Gebhardt, Fischer, and Oberheuser as having participated in the experiment upon her. (*Tr. p. 860.*) Kusmierczuk suffered permanent injuries as a result of this experiment, and her condition was described by the expert witness Dr. Leo Alexander. (*Tr. pp. 864–9.*) The post-operational care of this woman was not handled by Gebhardt and Fischer, but by the camp doctors. On the occasion of her second admission to the hospital in September 1943, Kusmierczuk was operated on by Dr. Treite in an effort to cure the deep-seated infection. (*Tr. p. 861.*) [See photographs, pp. 898 to 908.]

The expert witness Maczka, who worked as an X-ray technician in

the Ravensbrueck concentration camp during the course of the experiments, testified concerning deaths of the five Polish experimental subjects resulting from the sulfanilamide experiments. Weronica Kraska developed typical tetanus symptoms a few days after the experimental operation was performed on her. After a brief illness she died under cramps caused by tetanus. (*Tr. p. 1438.*) Kazimiera Kurowska was artificially infected with gangrene bacillus. She was a healthy Polish girl of 23 years. From day to day her leg became blacker and more swollen. She was given care for only the first few days. After that she was taken to Room 4 in the hospital where she lay for days in unbelievable pain and finally died. Maczka was able to observe this case personally and in her opinion immediate amputation would have saved her life. (*Tr. pp. 1439–40.*) It is quite clear that if a German soldier's life had been endangered by gangrene infection, an amputation would have been undertaken immediately. In this experiment, where the very effort was to develop a serious gangrene infection and to test the effects of sulfanilamide preparations, it is equally clear why the leg of Kurowska was not amputated. Aniela Lefanowicz was infected with oedema malignum. Her leg kept swelling more and more, the blood vessels eroded, and she died from bleeding. Maczka testified that the blood vessels should have been tied off and an amputation carried out in order to save her life. She was completely neglected after the first 2 or 3 days. (*Tr. pp. 1440–1.*) Zofia Kiecol died under similar circumstances. (*Tr. p. 1441.*)

Alfreda Prus was infected with oedema malignum the same day as the witnesses Kusmierczuk, Kiecol, and Lefanowicz. She was a beautiful, young 21-year-old girl, and a university student. She proved to be stronger than Kiecol and Lefanowicz and for that reason she lived a few days longer. She suffered terrible pain and finally died of hemorrhage. (*Tr. pp. 1442–3.*) Kusmierczuk was the only subject to survive that series of experiments. (*Tr. p. 1443.*)

It is hardly necessary to point out that all of the experimental subjects suffered severe pain and torture. (*Tr. pp. 790–1, 802, 820, 842, 859; NO–876, Pros. Ex. 225; NO–871, Pros. Ex. 227; NO–877, Pros. Ex. 228.*) The Tribunal was able to observe for itself the mutilations to which the Polish witnesses were subjected, and pictures of their scars were introduced to form a permanent part of the record. (*NO–1079a, b, and c, Pros. Ex. 209; NO–1081a, and b, Pros. Ex. 211; NO–1082a, b, and c, Pros. Ex. 214; NO–1080a-g, Pros. Ex. 219.*)

The post-operational care of the experimental subjects was entirely inadequate. (*NO–873, Pros. Ex. 226.*) Many of the subjects were given neither medicine nor morphine by order of defendant Oberheuser. (*NO–877, Pros. Ex. 228.*) They were given bandages from

time to time when the doctors felt like it. Sometimes they waited 3 days, sometimes 4 days. There was a terrible odor of pus in the rooms. The girls were forced to help each other. (*Tr. p. 1444.*) Post-operational care, such as it was, was administered by the camp doctors. The witness Broel-Plater testified that:

> "My leg pained me; I felt severe pain, and blood flowed from my leg. At night we were all alone without any care. I heard only the screaming of my fellow prisoners, and I heard also that they asked for water. There was nobody to give us any water or bed pans." (*Tr. p. 790.*)

The witness Karolewska testified that:

> "I was in my room and I made the remark to fellow prisoners that we had been operated on under very bad conditions and were left here in this room, and that we were not given even the possibility to recover. This remark must have been heard by a German nurse who was sitting in the corridor because the door of our room leading to the corridor was open. The German nurse entered the room and told us to get up and dress. We answered that we could not follow her order because we had great pains in our legs and could not walk. Then the German nurse came into our room with Dr. Oberheuser. Dr. Oberheuser told us to dress and go to the dressing room. We put on our dresses; and, being unable to walk, we had to hop on one leg going to the operating room. After one hop we had to rest. Dr. Oberheuser did not allow anybody to help us. When we arrived at the operating room quite exhausted, Dr. Oberheuser appeared and told us to go back because a change of dressing would not take place that day. I could not walk, but somebody, a prisoner whose name I do not remember, helped me to get back to the room." (*Tr. p. 822.*)

At least five human lives were sacrificed in the sulfanilamide experiments, while an additional six were shot after having survived the operations. All the surviving victims suffered terrible pains and were crippled for life. Nevertheless, the experiments were not even scientifically successful. The results, as reported by Gebhardt and Fischer at the Third Conference of the Consulting Physicians of the Wehrmacht at the Military Medical Academy in Berlin in May 1943, were not adopted, and medical directives were issued which required the continued use of sulfanilamide. (*Gebhardt*, *Fischer*, *Oberheuser 3*, *Gebhardt*, *Fischer*, *Oberheuser Ex. 10.*) The sulfanilamide experiments were entirely unnecessary, since similar results could have been achieved by the treatment of wound infections of German soldiers normally contracted during the course of the war. (*Tr. pp. 3334*, *3338.*)

Gebhardt does not seriously contend that the experimental subjects were volunteers. He admitted that he did not know whether the

women consented. He testified he was not interested in that. He left it to the "legal authorities." He did not discuss this matter with Himmler. (*Tr. p. 4214.*) By legal authorities, Gebhardt meant Himmler who, as he said, "had the power to execute thousands of people by a stroke of his pen." (*Tr. p. 4025.*) Gebhardt, however, showed no interest whatever in the moral or legal character of that power. At one point in his testimony, he stated that the subjects were nonvolunteers forced to submit to the experiments by the State. (*Tr. p. 4064.*) At still another point, they were "more or less volunteers, condemned persons." (*Tr. p. 4021.*)

Gebhardt's defense, if it can be dignified with that word, is rather that the Polish women had been condemned to death for participation in a resistance movement and that by undergoing the experiments, voluntarily or otherwise, they were to have their death sentences commuted to some lesser degree of punishment whereby they would at least not be executed. This was no bargain reached with the experimental subjects; their wishes were not consulted in the matter. It was, according to Gebhardt, left to the good faith of someone unnamed to see to it the death sentence was not carried out on the survivors of the experiments. Certainly Gebhardt assumed no responsibility, or even interest, in this matter.

The prosecution points out, in connection with this alleged defense, that the proof shows that the experimental subjects who testified before this Tribunal were never so much as accorded a trial; they had no opportunity to defend themselves against whatever crimes they were said to have committed. They were simply arrested and interrogated by the Gestapo in Poland and sent to a concentration camp. They had never so much as been informed that they had been *marked for*, not sentenced to, death. (*Tr. p. 831.*) Article 30 of the Regulations Respecting the Laws and Customs of War on Land annexed to the Hague Convention expressly provides that even a spy "shall not be punished without previous trial." The alleged defense of Gebhardt is accordingly without merit.

Gebhardt would have the Tribunal believe that *but for* the experiments all these Polish girls would be dead; that he preserved the evidence now being used against him. Nothing could be further from the truth. There is no proof in the record that these women would have been executed if they had not undergone the experiments. The witness Maczka is living proof of the contrary. She was arrested for resistance activities on 11 September 1941, and shipped to Ravensbrueck on 13 September. (*Tr. p. 1433.*) She was not an experimental subject yet she lives today. Substantially all the Polish experimental subjects arrived in Ravensbrueck in September 1941. (*Tr. pp. 788, 817, 840.*) These girls had not been executed by August 1942 when the experiments began. Indeed, it was a surprise to Gebhardt,

according to his testimony, that they were used at all since during July 1942 the experiments were conducted on men. There were some 700 Polish girls in that transport. (*NO–877, Pros. Ex. 228; Tr. p. 4216.*) There is no evidence that a substantial number were ever executed even though most of them were not experimented on.

No, the proof has shown beyond controversy that these Polish women *could not have been legally executed.* The right to grant pardons in cases of death sentences was exclusively vested in Hitler by a decree of 1 February 1935, Reich Law Gazette [RGBl], I, page 74. (*NO–3070, Pros. Ex. 531.*) On 2 May 1935, Hitler delegated the right to make *negative* decisions on pardon applications to the Reich Minister of Justice. (*NO–3071, Pros. Ex. 532.*) On 30 January 1940 (*RGBl, I, p. 399*), Hitler delegated to the Governor General for the occupied Polish territories the authority to grant pardons and to make denying decisions in pardon matters for the occupied Polish territories. (*NO–3072, Pros. Ex. 533.*) By edict, dated 8 March 1940, VOBl GGP I p. 99, the Governor General of occupied Poland ordered with reference to the execution of the right to pardon in the case of death sentences that:

> "The execution of a death sentence pronounced by a regular court, a special court or a police court martial *shall take place only when my decision has been issued not to make use of my right to pardon.*" [Emphasis supplied.] (*NO–3073, Pros. Ex. 534.*)

Assuming *arguendo* that the experimental subjects had all committed substantial crimes, that they were all properly tried by a duly constituted court of law, that they were legally sentenced to death, it is still clear from the decrees set forth above that these women could not have been legally executed until such time as the Governor General of occupied Poland had decided in each case not to make use of his pardon right. There has been no proof that the Governor General had ever acted with respect to pardoning the Polish women used in the experiments, or, for that matter, any substantial number of those not used in the experiments.

The only reason these 700 Polish women were transported from Warsaw and Lublin to Ravensbrueck was because the Governor General had not approved their execution. Otherwise they would have been immediately executed in Poland. At the very least, these women were entitled to remain unmolested so long as the Governor General took no action. He may never have acted or, when he did, he may have acted favorably on the pardon.

The affidavit of Schiedlausky, the camp doctor at Ravensbrueck, shows that the Governor General had not turned down a pardon when the experiments started. He said on page four of the original:

> "Polish women who had been sentenced to death by court martial

and who were awaiting execution, after their sentences had been approved by the Governor General, were chosen as subjects." (*NO–508, Pros. Ex. 224.*)

At still a later point, on page 15 of the original, he said:

"During my tour of duty at Ravensbrueck, I estimate that about 25 women were executed by shooting. They were exclusively Polish women, who were already prisoners, *whose sentences were only approved after a long time by the Governor General.*" [Emphasis added.]

Schiedlausky was in Ravensbrueck from December 1941 until the middle of August 1943. During that long period of time only 25 of over 700 Polish inmates were made eligible for execution by action of the Governor General. Who is to say that the majority of these 700 Polish women did not live through the war even though they did not undergo the experiments? Certainly it was incumbent on the defense to prove the contrary by a preponderance of the evidence. This it did not do by any evidence.

The defendants Gebhardt, Fischer, and Oberheuser cannot claim that they believed in good faith that the Polish women could have been legally executed. Even the camp doctor Schiedlausky knew that the Governor General had to approve the execution. Moreover, the large number of 700 women being sentenced to death at this early stage of the war was enough to put any reasonable person on notice that something was wrong.

Additionally, the uncontradicted evidence proves that survival of the experiments was no guarantee whatever of avoiding execution in any event. *At least six of the experimental subjects were executed after having survived the experiments.* (*Tr. pp. 1449, 797, 845, 863.*) The names of the Polish girls who were shot were Pajaczkowska, Gans, Zielonka, Rakowska, Sobolewska, and Gutek. (*NO–873, Pros. Ex. 226; NO–861, Pros. Ex. 232.*) It was not a question of experimentation *or* execution but experimentation *and* execution.

Indeed, in February 1945, an effort was made to execute all the experimental subjects. They were ordered to report to one block and remain there. They were informed that they would be transferred to the Gross-Rosen concentration camp, but it was common knowledge that Gross-Rosen was already in the hands of the Allies. They, therefore, knew that they were going to be executed and so took different identification numbers and hid themselves. This was possible because of disorganization in the camp. (*Tr. pp. 1450–1, 862–3; NO–876, Pros. Ex. 225; NO–877, Pros. Ex. 228.*)

If one takes the case of the defense at its face value, the Tribunal is in effect asked to rule that it is legal for military doctors of a nation at war to experiment on political prisoners of an occupied country

who are condemned to death, to experiment on them in such a way that they may suffer death, excrutiating pain, mutilation, and permanent disability—all this without their consent and in direct aid of the military potential of their enemy. There is no valid reason for limiting such a decision to civilian prisoners; the experiment would certainly have been no worse had it been performed on Polish or American prisoners of war. It is impossible to consider seriously the ruling being sought for by the defense.

c. Selection from the Argumentation of the Defense

EXTRACT FROM THE CLOSING BRIEF FOR DEFENDANT GEBHARDT

* * * * * * *

The Sulfanilamide Experiments

Of all medical experiments forming the subjects of the indictment, the experiments for testing sulfanilamides were undoubtedly the most directly connected with the war. The problem of wound infection is one with which every nation at war must concern itself especially in modern warfare. This problem is not only one of great importance to the life and health of the individual wounded soldier, but it may have a decisive effect on the strategical position and on the outcome of the war itself through the resultant gaps in the ranks. Already the First World War showed that the majority of soldiers do not die on the battlefield itself and that in most cases death is not the direct result of a wound, but that the heavy losses must be attributed to infection of wounds received. These experiences have been confirmed in the Second World War and the special conditions prevailing in Russia and the climatic conditions due to the winter there have shown even more than in the First World War that wound infection was a medical and tactical problem of the highest importance for the troops and their health. As regards details, I refer to statements made in this connection on the witness stand by several defendants in these proceedings.

Consequently, it could not come as a surprise that in this war, too, efforts were made to deal with wound infection not only by using surgical measures, but that a way was sought to prevent the formation and spreading of bacterial infections or at least to confine them within reasonable limits by using chemical preparations.

Such efforts seemed the more called for as the war in the East not only meant an immense strain on the resources in material and personnel in general, but also in view of the fact that especially the supply of the army troops and the Waffen SS with medical officers

and, above all, with trained field surgeons became more and more difficult. Had it been possible to assist the field medical officers at the front and at the main dressing stations with a reliable and effective chemo-therapeutic preparation against bacterial wound infection, progress of vast importance would have been achieved.

On the other hand, however, it was impossible to overlook the fact that the introduction of a chemo-therapeutic preparation which did not operate safely involved a certain amount of danger to an effective medical care of the wounded and consequently to the war potential of the wounded and consequently to the war potential of the German Wehrmacht and its striking power. In his lecture on the chemotherapy of wound infection as delivered before the First Conference East of the Consulting Specialists on 18 May 1943, which I submitted as part of the report dealing with this conference. (*Gebhardt, Fischer, Oberheuser 1, Gebhardt, Fischer, Oberheuser Ex. 6.*) Professor Dr. Rostock referred to the great danger of chemo-therapy, i. e., the possibility "of making negligent physicians careless in the surgical aspect of wound dressing, since they may place a certain trust in chemotherapy."

This warning was all the more in order since, at that time there was not only complete uncertainty as regards the effects of sulfanilamides, but also because there was a divergence in opinions as to the efficacy of this preparation. It has been clearly shown by the evidence that, in spite of close observation of the effects of sulfanilamides in peace time and in war, it was impossible to answer this question. Opinions were very much divided. While some were convinced of the efficacy of these preparations in connection with wound infections, and ascribed extraordinarily good results to them, others were of the opinion that these chemical preparations could at the best be used as a supplement and that if used by themselves, they did not have the properties to prevent bacterial infection resulting from combat wounds. With regard to the details I refer to the statements of the defendants Karl Brandt, Handloser, Rostock, Gebhardt, and Fischer and to Gebhardt Exhibits 6, 7, and 10 as submitted by me during the hearing of the evidence.

In this respect, it is highly interesting to review the scientific discussions of the consulting specialists as contained in the report on the First Conference East on 18 and 19 May 1942. (*Gebhardt, Fischer, Oberheuser 1, Gebhardt, Fischer, Oberheuser Ex. 6.*) These discussions which took place prior to the sulfanilamide experiments comprising the subject of the indictment give a true picture of the situation as it was at that time with regard to the efficacy of sulfanilamides.

In this respect we are able to distinguish three sharply defined groups. In the group which rejected the chemo-therapeutic treatment of wound infection, Geheimrat Professor Sauerbruch was the leader.

He emphatically voiced the opinion that these chemical preparations tend to obscure surgical work and to lead to perfunctory treatment. He requested that the preparations should be critically tested, that is to say, the test should be made by surgeons experienced in general surgery.

In the other camp there were surgeons who claimed to have obtained extraordinarily favorable results in the chemo-therapeutical treatment of bacterially infected wounds. Among them was Dr. Krueger, the Berlin professor of surgery, who claimed to have observed a favorable effect of sulfanilamide in as many as 5,000 cases.

To the third group belonged the surgeons, bacteriologists, and pathologists who took the view that nothing definite could be said as yet as to the effects and the efficacy of sulfanilamides as agents in the fight against bacterially infected wounds and that further tests along these lines would have to be made.

Thus it can be said that after the experiences of the Russian winter campaign of 1941–1942, the fight against bacterial wound infections and the question of the efficacy of the sulfanilamides had become a military-medical and medical-tactical problem of the first importance, about which opinions differed widely. A solution of this problem was the more urgent as an answer had to be found quickly, and on the other hand the fact was not to be disregarded that the experiences gained during nearly 10 years of peace and war in clinics as well as in laboratories were insufficient to answer this question.

The Order for the Execution of these Experiments

The evidence has shown that the order to ascertain the effectiveness of the sulfanilamides by experiments on human beings was given directly by the Head of State and Supreme Commander of the Wehrmacht. Hitler's order was not at first submitted by Himmler to the defendant Gebhardt, but to Dr. Grawitz, Reich Physician of the SS and police.

However, the evidence showed further that another circumstance arose which from the point of view of time at least caused the order for these experiments to be given, viz, the death of the Chief of the Reich Security Main Office, General of the Waffen SS Reinhardt Heydrich, who in May 1942 was assassinated in Prague. For the details I refer to the testimony of Gebhardt in the witness box on this matter. Heydrich's death is connected with the experiments themselves only insofar as, at that time, the charge was leveled that Heydrich's life could have been saved if sulfanilamides, and especially a certain sulfanilamide preparation, had been administered to the wounded man in sufficient quantities. The whole problem of sulfanilamide therapy came to the fore once more in this one case, and then in

such an obvious manner that the Head of State himself gave the order to clarify by way of all-out experiments the question which for a long time had been of general importance for the fighting troops at the front.

Within the scope of this evaluation of evidence, it is irrelevant to enter into the details which resulted in the experiments being carried out by the defendant Gebhardt himself. Against the strict order of the Reich Physician SS Grawitz, Gebhardt carried out the experiments not by deliberately inflicting bullet wounds but by causing an infection while observing all possible precautionary measures.

It was further shown by the evidence that the experiments were started with 15 habitual criminals who had been sentenced to death and who had been transferred from the concentration camp Sachsenhausen to Ravensbrueck. In view of the fact that this part of the experiment is not a subject of the indictment, it seems to be unnecessary to enter into this matter. It should, however, be kept in mind that at the conference on 1 June 1942, at which the conditions for the experiments were determined in detail—the defendant Gebhardt has described this conference in detail and I am referring to this—it was understood that the experiments should be carried out with the male habitual criminals who had been sentenced to death and who were to be pardoned in case of survival.

The Experimental Arrangements for the Sulfanilamide Experiments

It was shown by the evidence that the experiments for testing the effectiveness of the sulfanilamides were carried out in three groups. The first group included 15 men (habitual criminals). This group has nothing to do with the charges of the indictment and it is therefore superfluous to enter into this matter more closely.

The second group included 36 female prisoners who had been members of the Polish Resistance Movement and who, for this reason, had been sentenced to death by the German court martial in the General Government. This second group was divided into 3 subgroups of 12 experimental persons each. As to the particulars of the provisions for the experiments, I refer to the testimony of the defendants Gebhardt and Fischer in the witness box. Contrary to the first group, contact substances were used in this second group to accelerate the process of infection. The contact substances were inserted into the open wound together with the germs. Sterile and pulverized glass and sterile wood particles were used as contact substances. These contact substances took the place of earth and uniform particles and were to produce war-like conditions for the wounds, without, however, producing at the same time the general dangers created by infection of the wound by earth and parts of clothing.

As in the case of the first group, staphylococci, streptococci, and gas gangrene bacilli were used as agents. But the contention of the indictment that tetanus germs were also used is incorrect. On the contrary, the evidence has proved that the treatment of tetanus did not come within the scope of these experiments. There was all the less reason for this as it was realized long ago by German military surgery that the sulfanilamide preparations are not suitable for the effective prevention of traumatic tetanus. Here I refer to the directives for the chemotherapeutical treatment of wound infection which were issued at the First Working Conference East of the Consulting Specialists in May 1943 (*Gebhardt, Fischer, Oberheuser 1, Gebhardt, Fischer, Oberheuser Ex. 6*)—that is prior to the performance of the sulfanilamide experiments charged in the indictment. In these directives it is expressly pointed out that the outbreak of traumatic tetanus cannot be prevented by means of the sulfanilamides and that tetanus antitoxin has to be administered as usual.

During the presentation of evidence, only the witness Dr. Maczka maintained that tetanus was actually used in one individual case. This witness did not make her own observations of the case but drew conclusions based exclusively on the pathological picture presented by one of the experimental subjects according to her statements. In view of the fact that even according to the testimony of this witness tetanus bacilli were employed only in one individual case, the assertion of this witness can hardly be taken as a true representation of the facts, for if it had really been the intention of the defendant Gebhardt to determine the effect of sulfanilamides on tetanus too, one experimental subject would certainly not have been sufficient, and more experiments would have been necessary before a final decision regarding this question could possibly have been made.

The third group consisted of 24 experimental subjects who were not treated with any sort of contagion—unlike the procedure applied to the second group—but only had part of the muscle ligatured. The defendants Gebhardt and Fischer have given detailed evidence regarding these new experimental arrangements, how they originated, what considerations had to be regarded, and what part was played by SS Reich Physician Dr. Grawitz. With regard to these details I refer to the testimony of the defendants in the witness box.

The experimental subjects were treated with sulfanilamides as described by the defendants in the witness box. A few persons were not treated with sulfanilamides but were used as control subjects. But that did not mean that these persons were not treated at all. As the evidence has proved, all experimental subjects were treated, namely by surgical measures if the sulfanilamides did not prove effective against the inflammation. For this reason too the experimental subjects to whom sulfanilamides were applied, and where the inflamma-

tion did not pass away by itself, were given direct surgical treatment under observance of the generally recognized principles of surgery, particularly as developed in Germany by Gebhardt's teacher Professor Dr. Lexer. This direct surgical treatment resulted in the scars which the court has seen on the experimental subjects questioned as witnesses. As explained by Professor Dr. Alexander, the expert produced by the prosecution, these scars are the result not of the bacteriological infection but of the operations performed in order to eliminate this infection. In the prosecution case, four experimental subjects were called to give evidence. In addition, the prosecution submitted a series of affidavits given by other persons used as experimental subjects. The statements of the four witnesses questioned in court coincide largely with the testimony given by the defendants Gebhardt, Oberheuser, and Fischer themselves in the witness box. For this reason alone it appears expedient and sufficient for the pronouncement of a just sentence and for the establishment of the true facts to base the sentence exclusively on the testimony of these four witnesses together with the statements of the defendants themselves. This is not only in accordance with the principle of direct and oral proceedings in court prevailing in any modern criminal procedure and which should not be departed from without urgent reason, but also such handling of the case seems suitable because the statements of the four witnesses are identical essentially so that they themselves, together with the statements given by the defendants, can be regarded as a safe basis for a finding—apart from one point which I shall go into later. In addition, the affidavits submitted by the prosecution not only differ in essential points from the statements made by the witnesses in court, but are inconsistent and contradictory in themselves as well. This is shown, above all, by the fact that in several of these affidavits contentions are quite obviously made which are not based on personal and factual observation, but have become known to these witnesses by hearsay. The affidavits, moreover, fail to represent the circumstances in clear chronological order, which makes the whole matter all the more doubtful, as it was proved by the evidence that in the Ravensbrueck camp experiments were obviously also performed by other physicians with whom the defendant in this case had no connection.

Considerable doubts also exist regarding the statements made by the witness Dr. Maczka. The prosecution has submitted two affidavits given by this witness as part of its evidence. When questioned in court, this witness could not maintain the most incriminating contentions which appeared in the two affidavits. Under these circumstances, the court has to consider whether it regards the statements of this witness as sufficiently reliable to enter into the judgment. I would answer this question in the negative, not only because she had to revoke the most essential points of her previous affidavits, but

because a large part of her testimony was based not on her own observations, but either on information obtained from other prisoners or on conclusions drawn by her.

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d. Evidence

Prosecution Documents

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NO-228	206	Affidavit of defendant Fischer, 19 November 1946, concerning sulfanilamide experiments conducted in the concentration camp Ravensbrueck.	371
NO–472	234	Affidavit of the defendant Fischer, 21 October 1946, supplementing his affidavit concerning sulfanilamide experiments.	376
NO–1080 A, E, F	219 A, E, F	Exposures of the witness Maria Kusmierczuk who underwent sulfanilamide and bone experiments while an inmate of the Ravensbrueck concentration camp. (*See Selections from Photographic Evidence of the Prosecution.*)	901
NO–1082 A, C	214 A, C	Exposures of the witness Jadwiga Dzido who underwent sulfanilamide and bone experiments while an inmate of the Ravensbrueck concentration camp. (*See Selections from Photographic Evidence of the Prosecution.*)	903

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Gebhardt, Fischer, Oberheuser 21	Gebhardt, Fischer, Oberheuser Ex. 20	Extract from affidavit of Dr. Karl Friedrich Brunner, 14 March 1947.	377
Gebhardt, Fischer, Oberheuser 1	Gebhardt, Fischer, Oberheuser Ex. 6	Extract from report on the First Conference East of Consulting Specialists on 18 and 19 May 1942 at the Military Medical Academy, Berlin.	377
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Testimony

Extracts from the testimony of prosecution witness Jadwiga Dzido 381

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Extracts from the testimony of defendant Gebhardt 387

PARTIAL TRANSLATION OF DOCUMENT NO–228
PROSECUTION EXHIBIT 206

AFFIDAVIT OF DEFENDANT FISCHER, 19 NOVEMBER 1946, CONCERNING SULFANILAMIDE EXPERIMENTS CONDUCTED IN THE CONCENTRATION CAMP RAVENSBRUECK

AFFIDAVIT

I, Fritz Ernst Fischer, having been duly sworn, depose and state under oath:

I am a doctor of medicine, having been graduated from the University of Hamburg. I passed my state examination in 1936. On 13 November 1939 I was inducted into the Waffen SS and after having served with a combat division as medical officer, I was hospitalized and then assigned to the SS hospital at Hohenlychen, as assistant surgeon.

In addition to my normal duties as surgeon at the SS hospital at Hohenlychen, I was ordered by Professor Gebhardt to begin medical experiments in my capacity as assistant surgeon to Professor Gebhardt on or about 12 July 1942. The purpose of the proposed experiments was to determine the effectiveness of sulfanilamide, which I was informed at that time was a matter of considerable importance to military medical circles.

According to the information which I received from Professor Gebhardt, these experiments were directed initially by the Reich Leader SS and the Reich Physician Dr. Grawitz.

Professor Gebhardt instructed me, before the operations were undertaken, on the techniques to be followed and the procedure to be employed. The persons who were to be the subjects of these experiments were inmates of the concentration camp at Ravensbrueck who had been condemned to death.

The administrative procedure which was followed in obtaining the subjects for the experiments was established by Professor Gebhardt with the camp commandant at Ravensbrueck. After the initial arrangements had been made, it was the general practice to inform the medical officer at Ravensbrueck as to the date on which a series of experiments was to be begun and the number of patients who would be required, and then he took the matter up with the commandant of the camp, by whom the selections of subjects were made. Before an operation was undertaken, the persons who had been selected in accordance with this procedure were given a medical examination by the camp physician to determine their suitability for the experiments from a medical standpoint.

The first of the series of experiments involved five persons. The

gangrenous bacterial cultures for use in the experiments were obtained from the Hygiene Institute of the Waffen SS. The procedure followed in the operations was as follows: The subject received the conventional anesthetic of morphine-atropine, then evipan ether. An incision was made 5 to 8 centimeters in length and 1 to 1½ centimeters in depth, on the outside of the lower leg in the area of the peronaeus longus.

The bacterial cultures were put in dextrose, and the resulting mixture was spread into the wound. The wound was then closed and the limb encased in a cast, which had been prepared, which was lined on the inside with cotton so that in the event of swelling of the affected member the result of the experiment would not be influenced by any factor other than the infection itself.

The bacterial cultures used on each of the five persons varied both as to the type of bacteria used and the amount of culture used.

After the initial operations had been performed, I returned to Ravensbrueck each afternoon to observe the progress of the persons who had been operated on. No serious illnesses resulted from these initial operations. I reported the progress of the patients to Professor Gebhardt each night.

When the five persons first operated on were cured, another series of five was begun. The surgical procedure and the post-operative procedure was the same as in the initial experiments, but the bacterial cultures were more virulent. The results from this series were substantially the same as in the first and no serious illnesses resulted.

Since no inflammation resulted from the bacterial cultures used in the first two series of operations, it was determined, as a result of correspondence with Dr. Mrugowsky, the Chief of the Hygiene Institute of the Waffen SS, and conversations with his assistant, to change the type of bacterial culture in the subsequent operations. Using the new culture, two more series of operations were performed, each involving five persons.

The difference between the third and fourth series was in the bacterial cultures used. The Hygiene Institute of the Waffen SS prepared them from separate combinations of the three or four gangrene cultures which were available. In the third and fourth series, more pronounced infection and inflammation were discernible at the place of incision. Their characteristics were similar to a normal, local infection, with redness, swelling, and pain. The circumference of the infection was comparable in size to a chestnut. Upon the completion of the fourth series, the camp physician informed me that the camp commandant had instructed him that male patients would no longer be available for further experiments, but that it would be necessary to use female inmates.

Accordingly, five women were prepared for the operation, but I did

not operate on them. I reported the change of situation to Professor Gebhardt and suggested that in view of these circumstances, it would be desirable to stop the experiments. He did not adopt this suggestion, however, and pointed out that it was necessary for me as an officer to carry out the duties which had been assigned to me.

The experiments, however, were interrupted for a period of 2 weeks, during which Professor Gebhardt told me he had discussed the matter in Berlin and had been instructed to carry on the experiments, using Polish female prisoners who had been sentenced to death. In addition, he instructed me to speed up the experiments since the Reich Physician, Dr. Grawitz, intended to go to Ravensbrueck soon to test the results of the experiments. Accordingly, I went to Ravensbrueck and operated on the female prisoners.

Since the infections which resulted from the first four series of experiments were not typical of gangrenous battlefield infections, we communicated with the Hygiene Institute of the Waffen SS to determine what steps could be taken more nearly to simulate infections caused by battle. As a result of this correspondence and a conference at Hohenlychen presided over by Professor Gebhardt, it was decided to add tiny fragments of wood shavings to the bacterial cultures, which would simulate the crust of dirt customarily found in battlefield wounds.

As a result of this conference, three series of operations were performed, each involving 10 persons, one using the bacterial culture and fragments of wood, the second using bacterial culture and fragments of glass, and the third using the culture plus glass and wood.

About two weeks after these new series were begun, Dr. Grawitz visited Ravensbrueck. Professor Gebhardt introduced him to me and explained to him the general nature of the work. Professor Gebhardt then left, and I explained to Dr. Grawitz the details of the operations and their results. Dr. Grawitz, before I could complete my report on the procedures used and the results obtained, brusquely interrupted me and observed that the conditions under which the experiments were performed did not sufficiently resemble conditions prevailing at the front. He asked me literally, "How many deaths have there been?" and when I reported that there had not been any, he stated that that confirmed his assumption that the experiments had not been carried out in accordance with his directions.

He said that the operations were mere flea bites and that since the purpose of the work was to determine the effectiveness of sulfanilamide on bullet wounds it would be necessary to inflict actual bullet wounds on the patients. He ordered that the next series of experiments to be undertaken should be in accordance with these directions. That same evening, I discussed these orders of Dr. Grawitz with Pro-

fessor Gebhardt and we both agreed that it was impossible to carry them out, but that a procedure would be adopted which would more nearly simulate battlefield conditions without actually shooting the patients.

The normal result of all bullet wounds was a shattering of tissue, which did not exist in the initial experiments. As a result of the injury, the normal flow of blood through the muscle is cut off. The muscle is nourished by the flow of blood from either end. When this circulation is interrupted, the affected area becomes a fertile field for the growth of bacteria; the normal reaction of the tissue against the bacteria is not possible without circulation.

This interruption of circulation usual in battle casualties could be simulated by tying off the blood vessels at either end of the muscle.

Two series of operations, each involving 10 persons, were begun following this procedure. In the first of these, the same bacterial cultures were used as were developed in the third and fourth series, but the glass and wood were omitted. In the other series, streptococci and staphylococci cultures were used. In the series using the gangrenous culture a severe infection in the area of the incision resulted within 24 hours.

Eight patients out of ten became sick from the gangrenous infection. Cases which showed symptoms of an unspecific or specific inflammation were operated on in accordance with the doctrine and manner of septic surgery. The Lexer doctrine formed the basis of the procedure. The technique is that an incision in the area of the gangrene is made, from healthy tissue to healthy tissue on either side. The wound and fascian corners were laid open, the gangrenous blisters swabbed, and a solution of H_2O_2 (hydrogen peroxide) was poured over them. The inflamed extremity was immobilized in a cast. With most patients it was possible to improve the gangrenous condition of the entire infected area in this manner.

In the series in which banal cultures of streptococci and staphylococci were used, the severe resultant infection with accompanying increase in temperature and swelling did not occur until 72 hours later. Four patients showed a more serious picture of the disease. In the case of these patients, the normal professional technique of orthodox medicine was followed as outlined above, and the inflamed swelling split. Due to the slight virulence of the bacteria it was possible in the case of all patients except one to prevent the threatened deadly development of the disease.

The incisions were made on the lower part of the leg only in all series to make an amputation possible. It was not made on the upper thigh because then no area for amputation would remain. However, in this series the inflammation was so rapid that there was no remedy and no amputations were made.

Since after the tying up of the circulation of the muscles, a very severe course of infection was to be expected, 5 grams of sulfanilamide were given intravenously in the amount of 1 gram each, beginning 1 hour after the operation. After the wound was laid open to expose all its corners, sulfanilamide was shaken into the entire area and the area was drained by thick rubber tubes.

The infection normally reached an acute stage over a period of 3 weeks, during which time I changed the bandages daily. After the period of 3 weeks the condition was normally that of a simple wound which was dressed by the camp physicians rather than by me.

The procedure prescribed for the post-operative treatment of the patients was to give them three times each day 1 cc. of morphine, and when the dressings were changed, to induce an esthesia by the use of evipan.

In all the series of experiments, except the first, sulfanilamide was used after the gangrenous infection appeared. In each series two persons were not given sulfanilamide as a control to determine its effectiveness. When sulfanilamide and the bacteria cultures together were introduced into the incision no inflammation resulted.

* * * * * * *

My behavior towards all patients was very considerate, and I was very careful in the operations to follow standard professional procedure.

In May 1943, on the occasion of the Fourth Conference of the Consulting Physicians of the Wehrmacht, a report was made by Professor Gebhardt and myself as to these operations. This medical congress was called by Professor Handloser, who occupied the position of Surgeon General of the Armed Forces, and was attended by a large number of physicians, both military and civilian.

In my lecture to the meeting I reported on the operations frankly, using charts which demonstrated the technique used, the amount of sulfanilamide administered, and the condition of the patients. This lecture was the focal point of the conference. Professor Gebhardt spoke about the fundamentals of the experiments, their performance and their results, and then asked me to describe the technique. He began his lecture with the following words: "I bear the full human, surgical, and political responsibility for these experiments."

This lecture was followed by a discussion. No criticism was raised. I am convinced that all the physicians present would have acted in the same manner as I.

Subsequent to my repeated urgent requests, I went to the front as surgeon immediately after this conference. Only after I was wounded did I return as a patient to Hohenlychen. I never entered the Ravensbrueck camp again. I protested vigorously against these experiments

on human beings, endeavored to prevent them, and to limit their extension after they had been ordered. In order not to be forced to participate in these experiments, I repeatedly volunteered for front-line service. Insofar as it was in my power, I tried to dissuade Doctor Koller and Doctor Reissmayer from performing these experiments. I declined habilitation at the University of Berlin because I felt that it might result in my being obliged to carry on additional experiments at Ravensbrueck. After I succeeded in scientific discoveries of the highest practical importance, that is, the solution of the cancer problem and its therapy, I did not communicate this fact to Professor Gebhardt and did not publish this work in order not to be ordered again to carry out experiments.

FRITZ ERNST FISCHER

TRANSLATION OF DOCUMENT NO–472
PROSECUTION EXHIBIT 234

AFFIDAVIT OF THE DEFENDANT FISCHER, 21 OCTOBER 1946, SUPPLEMENTING HIS AFFIDAVIT CONCERNING SULFANILAMIDE EXPERIMENTS

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3. At the conference of May 1943, which I described on page 12 of my affidavit (last paragraph) the following officials were present to the best of my recollection: Dr. Paul Rostock as chairman of the conference; Dr. Siegfried Handloser, who was then the Chief of the Medical Service of the German Armed Forces, who had sent out the invitations to the meeting; Professor Karl Brandt, who sat in the center of the front row; Dr. Leonardo D. Conti, the Reich Health Leader; Professor Dr. Sauerbruch; Dr. Frey; and Professor Heubner. The Medical Service of the Luftwaffe was represented by Dr. Hippke, who was the Chief of the Medical Service of the Luftwaffe; and by Dr. Oskar Schroeder. The Medical Service of the Waffen SS was represented by its chief, Dr. Karl Genzken. Dr. Helmut Poppendick, who was the Chief of Staff of the Reich Physician SS and Police, and Dr. Grawitz were also present.

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5. It was made perfectly clear during the speeches made by Dr. Gebhardt and myself that the experiments were conducted on inmates of a concentration camp.

6. Six months after this, the 10th anniversary of the hospital at Hohenlychen was celebrated. Dr. Karl Brandt, Dr. Siegfried Handloser, Dr. Leonardo D. Conti, and Professor Dr. Sauerbruch were invited to the celebrations.

7. When the sulfanilamide experiments started, I was told by Professor Gebhardt, my military and medical superior, that these experiments were being carried out by order of the Chief of the Medical Office of the Wehrmacht and the Chief of the State Medical Office, with the initial order from Hitler, and I must therefore carry out these orders.

8. Dr. Herta Oberheuser and Dr. Schiedlausky assisted me in the sulfanilamide experiments.

9. As a result of these experiments, three people died.

[Signed] Fritz Ernst Fischer

TRANSLATION OF GEBHARDT, FISCHER, OBERHEUSER DOCUMENT 21
GEBHARDT, FISCHER, OBERHEUSER DEFENSE EXHIBIT 20

EXTRACT FROM AFFIDAVIT OF DR. KARL FRIEDRICH BRUNNER, 14 MARCH 1947

I only heard of the sulfanilamide experiments on human beings at Ravensbrueck after their conclusion through the public report made by Professor Gebhardt and Dr. Fischer before the Third Conference East of Consultant Specialists of 24 and 26 May 1943 at the Military Medical Academy, Berlin. I attended this conference as Stabsarzt in the army from a military reserve hospital in Berlin. Later on I read a report in the directives. Professor Dr. Gebhardt did not speak to us about this point subsequently. On the other hand, the existence of this sulfanilamide experiment was known and was not kept secret, although even foreigners were continuously to be found among the assistants, as, for instance, the Swiss surgeon, Dr. Meyer, during my time.

TRANSLATION OF GEBHARDT, FISCHER, OBERHEUSER DOCUMENT 1
GEBHARDT, FISCHER, OBERHEUSER DEFENSE EXHIBIT 6

EXTRACT FROM REPORT ON THE FIRST CONFERENCE EAST OF CONSULTING SPECIALISTS ON 18 AND 19 MAY 1942 AT THE MILITARY MEDICAL ACADEMY, BERLIN

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Directives for the chemotherapy of wound infections

The treatment of war wounds with sulfanilamide preparations in order to combat wound infections seems to have prospects. In stock now in the medical stores are: prontalbin-marfanil powder, prontosil,

neo-uleron-albucid, eubasinum, sulfapyridine-cibazol, and eleudron pills.

Traumatic tetanus cannot be prevented by these preparations; tetanus antitoxin must therefore be given as usual.

Chemotherapeutics are not a safe precaution against gas oedemata. The collection of further experiences in this field is especially desirable.

When treating war wounds, an operative arrangement of the wound must first be made by removing the dead tissue and opening all cavities of the wound. Then the remedy is applied with a powder distributor or with dredging boxes, in dosages of from 5–20 grams according to the size of the wound. This is repeated whenever a change of dressing is necessary. Independently of the change of dressing, and spread evenly over the day, the patient is given 8 grams on the first day, 6 grams on the second day, 5 grams on the third day and on each of the fourth, fifth, and sixth days, 4 grams of sulfanilamide preparations per os (if necessary, rectal or intravenous injections). Then the drug treatment is discontinued and started again if necessary. The earlier this treatment is begun the better are its chances.

Local treatment with the available sulfanilamide powders together with an internal treatment with albucid, cibazol, eleudron, eubasinum, globucid (particularly for gas oedema), marfanil-prontalbin, protosil is suggested.

If, in rare cases, secondary reactions occur such as nausea, vomiting, diarrhea, buzzing in the ears, headaches, skin rashes, or icterus, these remedies must be discontinued at once. A blood transfusion may be useful.

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PARTIAL TRANSLATION OF GEBHARDT, FISCHER, OBERHEUSER DOCUMENT 3

GEBHARDT, FISCHER, OBERHEUSER DEFENSE EXHIBIT 10

EXTRACTS FROM REPORT ON THE THIRD CONFERENCE EAST OF CONSULTING SPECIALISTS ON 24 TO 26 MAY 1943 AT THE MILITARY MEDICAL ACADEMY, BERLIN

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5. SS Gruppenfuehrer and Major General, Professor Gebhardt, and F. Fischer.

Special Experiments on Sulfanilamide Treatment

CONCLUSIONS

"1. The development of suppuration on the soft parts caused by bacteriae cannot be prevented, even if sulfanilamides are applied immediately, locally, or internally.

"2. It could not be proved that the course of an inflammatory illness caused by aerobic organisms on abscesses and phlegmons of the limbs was influenced by sulfanilamides. We were of the impression that combined gas gangrene therapy took a milder course under the influence of sulfanilamides.

"3. Surgical measures are indispensable for a successful treatment of inflammations."

Additional Remarks

The sprinkling of sulfanilamide powder on wounds can be injurious, if, by so doing, the fundamentals of surgery are infringed, if, for instance, the powder basis is not dissolved by the tissue fluids, and if the discharge of secretions is hampered by coagulation. The wounds treated with sulfanilamide powder show a slight tendency to exudation.

Hypothesis of Functions

The inflammation on the mesodermal soft parts shows a tendency towards necrosis at an early stage. The necrosis is the seat of the bacterial culture. Its surroundings show thrombosed vessels. Access to it by chemotherapeutic reagents is very difficult.

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Directives for the Application of Sulfanilamides

Experiments (*Gebhardt-Fischer*) showed the following results: Even the immediate internal and external application of sulfanilamide preparations cannot prevent a suppuration of the soft parts due to ordinary suppurative organisms. It could not be proved that the course of the inflammatory disease caused by anaerobions is influenced by sulfanilamides. The sulfanilamides seemed to have an easing effect on the course of combined gangrene therapy.

Disorders caused by sulfanilamides (*Randerath*) are relatively rare. They occur directly as liver disorders including acute yellow liver atrophy, as kidney disorders, and as agranulocytosis. Therefore, as far as is possible under front-line conditions, the white and red blood count should be controlled. The decrease of the body temperature caused by an infection of the central regulatory system may be looked upon as an indirect disorder, so that the temperature curve permits no conclusions as to the development of the wound infection. Furthermore, local powder treatment may lead to an occasional increase in the depth of the wound infection. Direct injury to the tissue at the spot where the preparations were applied was not observed.

The endolumbal application of the sulfanilamides (*Mueller*) must also be rejected for the treatment of meningitis, since it leads to seri-

ous disturbances in the region of the spinal cord and may result in paralysis.

The clinical discourse (*Frey*) emphasized the decrease of optimistic and the increase of critical opinions. The clinical doctor considers the principal disorders to be anorexia, nausea, and increasing exhaustion. Early application in the wound itself is essential for the efficacy. The enteral or parenteral inducing of sulfanilamide drugs cannot prevent wound infections, but can favorably influence its course.

The following rules for practice therefore result: All surface wounds, that is, grazing shot wounds, sulcus-shaped wounds and large gaping wounds of the soft parts should be sprinkled as soon as possible with sulfanilamide powder. The powder treatment is of no use if the depths of the wound are not reached. It is ineffective to powder the small wounds caused by the penetration and exit of the bullet. The powdering of the skin is senseless and may cause eczema. Deeper wounds must be treated in the quickest and most thorough manner. After this, the wound can be additionally treated with sulfanilamide powder which must reach the deepest cavities. It is not advisable to powder granulating wounds.

If the powder treatment cannot be applied during the first hours or does not seem to suffice, a pororal application of sulfanilamides should take its place or be performed supplementarily. Front-line conditions will not always allow intravenous injections. According to the danger of a wound infection, the wound should be treated for a short time with large doses of sulfanilamides (6–10 grams during 3–4 days, not more than a total of 50 grams). On the whole, small doses are insufficient and therefore have no influence on the course of an infection, but if applied too long they may be injurious. Suitable preparations are preferably eleudron, cibazol, and globucide. If possible, the treatment should be applied by a medical officer.

Wounds endangered by gas oedema—and this means all large and deep muscle wounds—should, in addition to the local and oral treatment with sulfanilamide, also be treated with gangrene serum. At subsequent operations, for example resection of the ribs, empyema of the chest, secondary sutures, and late amputations, the new wound caused by the operation may be powdered adequately with sulfanilamides when bleeding has stopped.

The thoroughness of the surgical wound treatment should in no way be lessened even by the additional application of sulfanilamides.

Abdominal gunshot wounds can also be treated with sulfanilamide powder (about one tablespoon) or the sulfanilamide may be induced into the abdominal cavity in the form of an emulsion.

EXTRACTS FROM THE TESTIMONY OF PROSECUTION WITNESS JADWIGA DZIDO*

DIRECT EXAMINATION

MR. HARDY: Witness, what is your full name?

WITNESS DZIDO: Jadwiga Dzido.

Q. Do you spell that J-a-d-w-i-g-a, last name spelled D-z-i-d-o?

A. Yes.

Q. Witness, you were born on 26 January 1918?

A. Yes.

Q. You are a citizen of Poland?

A. Yes.

Q. Have you come here to Nuernberg voluntarily to testify?

A. Yes.

Q. Would you kindly tell the Tribunal your present home address?

A. Warsaw, Garnoslonska 14.

Q. Witness, are you married?

A. No.

Q. Are your parents living?

A. No.

Q. What education have you received?

A. I finished elementary school and high school at Warsaw. In 1937 I started to study pharmacology at the University of Warsaw.

Q. Did you graduate from the University in Warsaw?

A. No.

Q. What did you do after you had finished school in the University of Warsaw?

A. I started studying pharmacology at the University, and then when I was studying the second year, the war broke out.

Q. What did you do after the war broke out?

A. In 1939 I was working in a pharmacy during the holidays.

Q. Were you a member of the Resistance Movement?

A. In the autumn of 1940 I entered the Resistance Underground.

Q. What did you do in the Resistance Movement?

A. I was a messenger.

Q. Then were you later captured by the Gestapo and placed under arrest?

A. I was arrested by the Gestapo on 28 March 1941.

Q. What happened to you after your arrest by the Gestapo?

A. I was interrogated by the Gestapo in Lublin, Lukow, and Radzin.

Q. And what happened after that?

A. In Lublin, I was beaten while naked.

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*Complete testimony is recorded in mimeographed transcript, 20 December 1947, pp. 838–847.

Q. Did you then receive any further treatment from the Gestapo, or were you released?

A. I stayed in Lublin 6 weeks in the cellar of the Gestapo building.

Q. Then were you sent to the Ravensbrueck concentration camp?

A. On 23 September 1941, I was transported to the Ravensbrueck concentration camp.

Q. Were you told why you were sent to the concentration camp in Ravensbrueck?

A. No, I was not told.

Q. Were you ever given a trial in any German court?

A. Never.

Q. Who sent you to Ravensbrueck concentration camp?

A. All the prisoners in the prison at Lublin were sent there, and I went with them.

Q. Now will you tell the Court, Miss Dzido, in your own words what happened to you after you arrived at Ravensbrueck?

A. When I arrived in the Ravensbrueck concentration camp, I thought that I would stay there till the end of the war. The living conditions in the prison were such that we could not live there any longer. In the camp we had to work, but in the camp it was not so dirty, and there were not so many lice as used to be in the prison.

Q. What work did you do in the camp, Witness?

A. I did physical work inside or outside the camp.

Q. Were you ever operated on in the Ravensbrueck concentration camp?

A. I was operated on in November 1942.

Q. Will you kindly explain the circumstances of this operation to the Tribunal?

A. In 1942 great hunger and terror reigned in the camp. The Germans were at the zenith of their power. You could see haughtiness and pride on the face of every SS woman. We were told every day that we were nothing but numbers, that we had to forget that we were human beings, that we had nobody to think of us, that we would never return to our country, that we were slaves, and that we had only to work. We were not allowed to smile, to cry, or to pray. We were not allowed to defend ourselves when we were beaten. There was no hope of going back to my country.

Q. Now, Witness, did you say that you were operated on in the Ravensbrueck concentration camp on 22 November 1942? [See photographs, pp. 898–908.]

A. Yes.

Q. Now, on 22 November 1942, the day of this operation, will you kindly tell the Tribunal all that happened during that time?

A. That day the policewoman, camp policewoman, came with a piece

of paper where my name was written down. The policewoman told us to follow her. When I asked her where we were going, she told me that she didn't know. She took us to the hospital. I didn't know what was going to happen to me. It might have been an execution, transport for work, or operation.

Dr. Oberheuser appeared and told me to undress and examined me. Then I was X-rayed. I stayed in the hospital. My dress was taken away from me. I was operated on 22 November 1942 in the morning. A German nurse came, shaved my legs, and gave me something to drink. When I asked her what she was going to do with me she did not give me any answer. In the afternoon I was taken to the operating room on a small hospital trolley. I must have been very exhausted and tired and that is why I don't remember whether I got an injection or whether a mask was put on my face. I didn't see the operating room.

When I came back I remember that I had no wound on my leg, but a trace of a sting. From that time I don't remember anything till January. I learned from my comrades who lived in the same room that my leg had been operated on. I remember what was going on in January, and I know that the dressings had been changed several times.

Q. Witness, do you know who performed the operation upon your leg?

A. I don't know.

Q. Now, you say that you had dressings changed. Who changed the dressings on your leg?

A. The dressings were changed by Drs. Oberheuser, Rosenthal, and Schiedlausky.

Q. Did you suffer a great deal while these dressings were being changed?

A. Yes, very much.

Q. Witness, will you step down from the witness box and walk over to the defendants' dock and see if you can recognize anyone in that dock as being at Ravensbrueck concentration camp during the period and during the time that you were operated on?

A. (Witness points.)

Q. Will you point to the person again that you recognized, Witness?

A. (Witness points.)

Q. And who is that, Witness?

A. Dr. Oberheuser.

MR. HARDY: May we request that the record so show that the witness has identified the defendant Oberheuser?

PRESIDING JUDGE BEALS: The record will so show.

MR. HARDY: Do you recognize anyone else in that dock, Witness?

WITNESS DZIDO: Yes.

Q. Point out who else you recognize, Witness?

A. (Witness points.)

Q. Who is that, Witness?

A. This man I saw only once in the camp.

Q. Do you know who that man is, Witness?

A. I know.

Q. Who is that man, Witness?

A. Dr. Fischer.

MR. HARDY: Will the record so show that the witness has properly identified the defendant Fischer as being at the Ravensbrueck concentration camp?

PRESIDING JUDGE BEALS: The record will so show.

MR. HARDY: Witness, do you have any other details to tell the Tribunal about your operation?

WITNESS DZIDO: (No answer.)

Q. Witness, how many times were you operated on?

A. Once.

Q. When Dr. Oberheuser attended you, was she gentle in her treatment toward you?

A. She was not bad.

Q. Witness, have you ever heard of a person named Binz in the Ravensbrueck concentration camp?

A. I know her very well.

Q. Do you remember what time your friends were called to be operated on in August of 1943?

A. Yes.

Q. Will you kindly tell the Tribunal some of the details there and the names of the persons who were to be operated on?

A. In the spring of 1943 the operations were stopped. We thought that we could live like that till the end of the war. On the 15th of August a policewoman came and called ten girls. When she was asked what for, she answered that we were going to be sent to work. We knew very well that all prisoners belonging to our transport were not allowed to work outside the camp. The chief of the block where we were living was forbidden under capital punishment to let us outside the camp. That's why we know that it was not true. We didn't want to let our comrades out of the block. The policewoman came, and the assistants, the overseers, and with them Binz. We were driven out of the block into the street. We stood there in line 10 at a time and Binz herself read off the names of 10 girls. When they refused to go because they were afraid of a new operation and were not willing to undergo a new operation, she herself gave her word of honor that it was not going to be an operation and she told them to follow her.

We remained standing before the block. Then several minutes later our comrades ran to us and told us that SS men have been called for in order to surround them. The camp police arrived and drove our comrades out of the line. We were locked in the block. The shutters were closed. We were 3 days without any food and without any fresh air. We were not given parcels that arrived in the camp at that time. The first day the camp commandant and Binz came and made a speech. The camp commandant said that there had never been a revolt in the camp and that this revolt must be punished. She believed that we would reform and that we would never repeat it. If it were to happen again, she had SS people with weapons. My comrade, who knew German, answered that we were not revolting, that we didn't want to be operated on because five of us died after the operation and because six had been shot down after having suffered so much. Then Binz replied: "Death is victory. You must suffer for it and you will never get out of the camp." Three days later, we learned that our comrades had been operated on in the bunker.

Q. Now, Witness, how many women, approximately, were operated on at Ravensbrueck?

A. At Ravensbrueck 74 women were operated on. Many of them underwent many operations.

Q. Now, you have told us that five died as a result of the operations, is that correct?

A. Yes.

Q. And another six were shot down after the operation, is that correct?

A. Yes.

Q. Do you know why those other six were shot, Witness?

A. I don't know.

Q. Witness, were any of these victims asked to volunteer for these operations?

A. No.

Q. Were any of them promised freedom if they would submit to operations?

A. No.

Q. When you were operated on, did you object?

A. I could not.

Q. Why?

A. I was not allowed to talk and our questions were not answered.

Q. Do you still suffer any effects as a result of the operation, Witness?

A. Yes.

Q. Were you ever asked to sign any papers with respect to the operation?

A. Never.

Q. When did you finally leave Ravensbrueck?

A. On 27 April 1945.

Q. Have you ever received any treatment since you have left Ravensbrueck in the last year?

A. Yes.

Q. Tell us what treatment you have received.

A. Dr. Gruzan in Warsaw transplanted tendons on my leg.

Q. When did he do that?

A. On 25 September 1945.

Q. Do you have to wear any special shoes, now, Witness?

A. Yes, I should wear them, but I can't afford to buy them.

Q. What are you doing now, Witness? Are you working now, or what is your occupation?

A. I am now continuing my studies which I started before the war.

Q. I see. I will ask the witness to identify these pictures.

MR. HARDY: This is Document NO–1082*a*, *b*, and *c*. I will pass these up to the Tribunal for your perusal. Were these photographs taken of you in Nuernberg in the last day or two, Witness?

WITNESS DZIDO: Yes.

Q. Witness, would you kindly take your stocking and shoe off your right leg, please, and will you step out to the side and show the Tribunal the results of the operations at Ravensbrueck? (Witness complies.) That's all, Witness, you may sit down.

MR. HARDY: I have no further question on direct examination, your Honor.

PRESIDING JUDGE BEALS: Is there any defense counsel who desires to cross-examine this witness?

DR. SEIDL (counsel for defendants Gebhardt, Oberheuser, and Fischer): I do not want to cross-examine the witness; however, I do not wish the conclusion to be drawn that my clients admit all the statements made by the witness.

EXTRACTS FROM THE TESTIMONY OF THE PROSECUTION EXPERT WITNESS DR. LEO ALEXANDER*

DIRECT EXAMINATION

MR. HARDY: Dr. Alexander, have you examined Miss Dzido before today?

WITNESS DR. ALEXANDER: Yes, sir, I did, on several occasions during the last 3 days.

Q. During your examination, did you have X-rays made of the patient's legs?

*Complete testimony is recorded in mimeographed transcript, 20 Dec. 1946, pp. 848–855.

A. I did, sir.

MR. HARDY: At this time I will introduce Document NO–1091 which is the X-ray of the witness, Miss Dzido. We will pass two copies to the Tribunal and one copy to the Secretary General. Dr. Alexander, in the course of your diagnosis of these X-rays, will you kindly diagnose this X-ray in English and then repeat in German for the benefit of the defendants?

WITNESS DR. ALEXANDER: Yes, sir.

Q. Doctor, will you identify that X-ray which carried Document NO–1091?

A. Yes. This is the X-ray which included the lower two-thirds of the thigh bone, the femur, and the knee joint, and—

MR. HARDY: I offer this X-ray as Prosecution Exhibit 215.

* * * * * * *

Q. Doctor, this X-ray you are referring to now is Document NO–1092?

A. This is Document NO–1091. The arrow points to the osteoporotic atrophy of the tibia. Document NO–1092 is the X-ray of the leg. It shows the fibula which is the smaller of the two larger bones of the leg, about in the middle between the area just mentioned under the bracket called "B". On the side, looking toward the tibia is the osteoperiostitis of the periosteum. This group of marks is particularly severe in the smaller area which I have marked with the bracket "A", which indicates a smaller area of the shaft of the tibia within the larger area of the disturbance marked as "B". This alteration is indicative and consists of an ordinary inactive Coxa, which in view of the osteoperiostitis of the periosteum was probably an osteomyelitis process. However, there is no active osteomyelitis at the present examination of the right foot. In pictures 1093 and 1094, it shows arthritic changes of the cuniform navicula joints with narrowing of the joint spaces and increased marginal sclerosis. This has been marked in the X-ray with an arrow pointing to the joint. The other prints are the same. The prints have come out too dark, but it shows the condition clearly in the film.

This arthritis is due to the immobilization of the right foot. Secondary to the muscles and especially the paralysis of the perineal nerve. It is evidently arthritis of an immobilization nature which one sees also by inspection of the patient's foot.

Q. Doctor, can you determine from your examination——

A. (Interposing) 1094—have I mentioned it?—shows the same as 1093 in a slightly different exposure. The marks are the same pointing to the most marked arthritis between the cuniform navicular joints.

Q. Doctor, in your opinion, from your examination of this patient can you determine what was the purpose of the experiment?

A. It appears that in this experiment a highly infectious agent was implanted, probably without the addition of a bacteria static agent such as sulfanilamide, and for that reason the infection got out of hand and became very extensive.

EXTRACTS FROM THE TESTIMONY OF DEFENDANT GEBHARDT*

DIRECT EXAMINATION

DR. SEIDL: The experiments on Polish internees were carried out in such a way that, first of all, three series of experiments were performed on three groups of 12 persons each. Is that correct?

DEFENDANT GEBHARDT: Yes. What I wanted to solve by means of this second experimental group was the task given me in my orders, namely, the testing of the drugs prescribed. I definitely hoped in these experiments, which produced gangrene, that if there was anything in the sulfanilamide drugs, which I had reason to hope, then the advantages connected with one or the other drug would become apparent, and I would be able to discontinue the experiments. Of course, I could not stop at the initial instructions. I really had to go on to a localized and definite infection, and for that there is an internationally known precept, not discovered by us, which is to produce a *locus minoris resistentia*—that is to say, the place of least resistance—where germs combine with contact substances. So we did not insert dirt, glass, or earth, cruelly; the dirt in the wound was represented by sterile glass silicate; soil and textiles which would enter a wound were replaced by us through sterile cellulose, finely ground. You all know that if you cut yourself and a nonsterile piece of glass remains in the wound, if you do not move the spot, it will heal with the glass inside without any aggravated symptoms. The only effect it has is to produce a catalysis for the germs and a local obstruction to the flow of blood, and possibly to damage a few cells slightly. In other words, we produced inflammation in the safest way possible for such an experiment. That is an unquestionable scientific train of thought in this sphere. We proceeded in just that manner and in addition, we gave our sulfanilamide, or zeibazol 1., eleutron, and nitron. Two control persons, however, were not without protection, because they were taken care of in the old established way.

Now, don't suggest that I should know the schedule or that there was some schedule regarding the supply of sulfanilamide used. A schedule is always bad in medicine because it is no longer original. One thing is characteristic, however, with sulfanilamides and that is that you give a big dose at the beginning, and here there is a question of whether it is correct to introduce it locally or to leave it open.

*Complete testimony is recorded in mimeographed transcript, 4, 5, 6, 7, 10 Mar. 47, pp. 3931–4256.

Someone might mix it, somebody else might have a different combination and that is how we did it. I would be a bad scientist if I were to write down for you now that I knew exactly that they were all given in a certain manner on the third day, or that they are all like this and this now. It states expressly in Thomas' statement, of course, that any prearranged table for the administration is wrong, and that we also cannot prescribe the correct way to apply these drugs. It was obviously clear that there was a strong impression made by sulfanilamides and, even in the first group, we were astonished to find a certain result, which is useful for the idea as such, but not for practical purposes. Among other things we immediately and simultaneously sprinkled a mixture of germs together with sulfanilamide powder into the wound. That was the only exception made in the first group and it didn't produce any results at all. Now, if I were a bad scientist then I would have assumed that that, in itself, was a success. No matter whether it was the ultrasepsis or the powder we had used, I would have been satisfied, and I would have said, "Everybody now has to take a little bag of sulfanilamide along with him and powder the wounds with it immediately because we know that if they are inserted simultaneously into the wound—the germ and the drug—then there will be no inflammation." Only in complete ignorance of wound conditions and war conditions could one adopt that point of view. The disadvantage of the sulfanilamide bag is that a man who is badly shot isn't in a position to act; he would be lying somewhere badly wounded and not be able to do anything. On the other hand, of course, the position is that the surface of the wound can easily be powdered, but of course not right down to the very bottom of the wound, and we know particularly well that sulfanilamides when applied wrongly in this way have caused injury.

Q. The second group consisted of the 36 women, 3 times 12 women?

A. Yes. Infection, plus contact materials.

Q. Is it true that the Reich Physician SS, Dr. Grawitz, on 3 September 1942, when inspecting Ravensbrueck, demanded that the experimental conditions had to be made more severe in order to create conditions similar to wartime conditions?

A. At the beginning of September, on the basis of my report, I was called to Grawitz to report on the results which might be expected. Grawitz, and as I shall explain later, Stumpfegger, came to me at the beginning of September. Since Grawitz was coming to Ravensbrueck I turned up on the same day, so that Fischer could demonstrate the patients under my protection. That is the impression probably created repeatedly by the testimony of witnesses; they have to wait for a time, and then I say "These are the patients whom I operated on." I assume the same description was given each time. Grawitz was able to prove to me that the effects were circumscribed

and not of a war nature. And he was able to prove to me that I had obtained no clear medical information, only assumptions, and the clinical conditions resulting might perhaps be expected after surgery at home. For another reason, which can be seen from the documents, the argument became rather violent. Grawitz turned to Fischer, who presented the cases to him. At any rate he then said, unfortunately, that a speedy clarification had to be reached and that wounds similar to combat wounds had to be created, that is, a gunshot wound infected by earth and matter. Of course, I did not accept these conditions and I looked for some way to get the experiment into my own hands so that, using all safeguards, a higher degree of infection might be brought about, and the cases might still remain under my control. I did not want to give up and say, "I have not reached any conclusion," thereby impliedly giving permission for wounds similar to combat wounds to be inflicted elsewhere. And so we arrived at the idea of tying off the arteries of the third group, which is also a customary means of bringing about a locus minoris resistentiae in international experimental technique.

Q. You did not carry out the order then?

A. No.

Q. Then how were the experiments continued in order to create severe local inflammation in warlike wounds?

A. We kept to our old technique, the infusion, that is an incision on the outer side of the calf far from the joint, where it is not under pressure, and where the cast does not hurt it. In other words, we chose the most suitable place according to all medical considerations. Then we administered the infection in a place where the circulation of the blood had been reduced.

* * * * * * *

Q. What do you know about the deaths, and why was there no amputation in these cases?

A. I believe that I can remember the three deaths very well. But I only remember three—I have always testified that—with all the things that have happened in the meantime and all the patients I have taken care of. It was not that Fischer or I overlooked an amputation, and it is certainly not true that an amputation can save the life of the patient in all cases of gangrene. As I remember the case histories, the most serious patient had a large abscess on the hip. Probably the corresponding glands had been affected. The infection on the calf and the abscess on the hip—what can I amputate? One can amputate when the infection is limited to the calf. We did not have such cases because we forced the infection to the place where we wanted it, but we were not able to prevent the infection spreading to a different area and running into the blood vessel as does happen oc-

casionally. There are infections of the veins, and then the patient dies suddenly, and it is a definite risk to perform an operation because the power of resistance is on the borderline, hanging by a hair. If we perform such major operations to save the patient's life, then you may assume that we would have undertaken an amputation, or would you assume that a surgeon of my experience does not know when he has to amputate? Unfortunately that is the first thing that an operative surgeon like Fischer learns in wartime, to amputate in time.

As far as I remember, the deaths were from an abscess of the glands, an inflammation of the veins, an inflammation of the blood vessels, and one died from general sickness, in spite of all transfusions. This happens in cases of infection when there is no possibility of stopping the infection by local surgery. But one cannot conclude that any medical measures which should have been taken were overlooked, because just by seeing a case history from a distance one cannot decide that at such and such a moment the patient should have been operated on. I am convinced that in these three cases which Fischer reported to me exactly, which I saw, and in which the therapy was discussed, that we certainly did not overlook anything. As far as one can humanly say, we did what we considered necessary.

I wanted to publish this result or to report it to the public from the beginning. Therefore, it was obvious from the very beginning, if you did not assume that I had any humane or surgical motives, that I did everything in order to be able to publish the results.

6. BONE, MUSCLE AND NERVE REGENERATION AND BONE TRANSPLANTATION EXPERIMENTS

a. Introduction

The defendants Karl Brandt, Handloser, Rostock, Gebhardt, Rudolf Brandt, Oberheuser, and Fischer were charged with special responsibility for and participation in criminal conduct involving experiments on bone, muscle, and nerve regeneration and experiments on bone transplantation (par. 6 (F) of the indictment). During the trial, the prosecution withdrew this charge in the case of Rudolf Brandt. On this charge the defendants Gebhardt, Oberheuser, and Fischer were convicted and the defendants Karl Brandt, Handloser, and Rostock were acquitted.

The prosecution's summation of the evidence on these experiments is contained in its final brief against the defendant Gebhardt. An extract from this brief is set forth below on pages 392 to 396. A corresponding summation of the evidence by the defense on these experiments has been selected from the final plea for the defendant Gebhardt. It appears below on pages 396 to 399. This argumentation is followed by selections from the evidence on pages 400 to 418.

b. Selection from the Argumentation of the Prosecution

EXTRACT FROM THE CLOSING BRIEF AGAINST DEFENDANT GEBHARDT

Bone, Muscle, and Nerve Regeneration, and Bone Transplantation Experiments

These experiments were carried out in the Ravensbrueck concentration camp during the same period of time and on the same group of Polish inmates as the sulfanilamide experiments. (*Tr. p. 1458.*)

The defendant Fischer made the following statement about these experiments in his affidavit:

"After the arrival of Doctor Stumpfegger from general headquarters in the fall of 1942, Professor Gebhardt declared before some of his co-workers that he had received orders to continue with the tests at Ravensbrueck on a larger scale. In this connection, questions of plastic surgery which would be of interest after the end of the war should be clarified. Doctor Stumpfegger was supposed to test the free transplantation of bones. Since Professor Gebhardt knew that I had worked in preparation for my habilitation at the university on regeneration of tissues, he ordered me to prepare a surgical plan for these operations, which, after it had been approved he directed me to carry out immediately. Moreover, Doctor Koller and Doctor Reissmayer were ordered to perform their own series of experiments. Professor Gebhardt was also considering a plan to form the basis of an operative technique of remobilization of joints. Besides the above, Doctors Schulze and Schulze-Hagen participated in this conference.

"Since I knew Ravensbrueck I was ordered to introduce the new doctors named above to the camp physician. I was specially directed to assist Doctor Stumpfegger, since, as physician on the staff of Himmler, he would probably be absent from time to time.

"I had selected the regeneration of muscles for the sole reason because the incision necessary for this purpose was the smallest. The operation was carried out as follows:

"Evipan and ether were used as an anaesthetic, and a 5 centimeter longitudinal incision was made at the outer side of the upper leg. Subsequent to the cutting through the fascia, a piece of muscle was removed which was the size of the cup of the little finger. The fascia and skin were enclosed in accordance with the normal technique of aseptic surgery. Afterwards a cast was applied. After 1 week the skin wound was split under the same narcotic conditions, and the part of the muscle around the area cut out was removed.

Afterwards the fascia and the sewed-up part of the skin were immobilized in a cast." (*NO–228, Pros. Ex. 206; Tr. p. 774.*)

The responsibility of the defendant Gebhardt for these experiments is also proved by the affidavit of Oberheuser. She stated:

"The experiments with bone transplantations were carried out, as far as I can remember, at the end of 1942 and beginning of 1943 by Dr. Stumpfegger of Hohenlychen. I helped Dr. Stumpfegger in the same way as I helped Dr. Fischer with the sulfanilamide experiments, and as I have described already in paragraph 4 of this affidavit. Before the operation I had to examine, as in the other case, the condition of health of the selected persons. The operations consisted of the removal and transplantation of a piece of the bone from the tibia. Fifteen to twenty persons were used for these experiments.

"The persons necessary for these experiments were requisitioned by Dr. Schiedlausky from the camp commander.

"Dr. Karl Gebhardt was in charge of the sulfanilamide experiments and bone transplantations. I do not know whether he himself performed operations of this type. But I know that all these experiments were performed under his direction and supervision and upon his instructions. He was assisted by the doctors already mentioned, Dr. Fischer and Dr. Stumpfegger, and also by Drs. Schiedlausky and Rosenthal. Also only healthy Polish prisoners were used for these experiments.

"I cannot remember that a single one of the experimental subjects used was pardoned after the completion of the experiments." (*NO–487, Pros. Ex. 208.*)

The witness Maczka, a graduate of the Medical School of the University of Krakow and a practicing physician, testified that in the course of her duties as X-ray technician in the Ravensbrueck concentration camp she had occasion to observe approximately 13 cases in which experimental operations were performed on the bones of inmates. There were three kinds of bone operations—fractures, bone transplantations, and bone splints. Some of the Polish girls were operated on several times. In the case of Krystyna Dabska, Maczka took X-ray pictures of both legs and discovered that small pieces of the fibulae had been removed. In the case of one leg the periosteum had also been taken out. Zofia Baj was operated on in a similar manner. Janina Marczewska and Leonarda Bien were subjected to the bone fracture experiments. The tibia was broken in several places and in the case of one of the girls, clamps were applied while in the case of the other they were not. These operations impeded the locomotion of the girls operated on. Bone incision operations were performed on Barbara Pietczyk, a Polish girl 16 years old. She was

operated on six times. During the first operation incisions were made in each tibia. During a later operation pieces of the tibia were cut out where incisions had been previously made. Maczka took an X-ray of the pieces of tibia that were removed. As a result of these bone operations, Maczka observed the development of two cases of osteomyelitis, Maria Grabowska and Maria Cabaj. (*Tr. pp. 1445–7.*)

A rather large group of muscle experiments were performed. Here again multiple operations were carried out on the same subject. Gledziewjowska was operated on most frequently. During the first operation certain muscles were removed and during subsequent operations additional pieces were cut out, always at the same place, so that the legs got thinner and weaker all the time. (*Tr. p. 1447.*)

Transplantation of whole limbs from one person to another was also carried out. Maczka testified that about 10 feeble-minded inmates were selected, taken to the hospital and prepared for operation. She knew personally that at least two of these persons were operated on. One case was a leg amputation. Following this operation, the experimental subject was killed and placed in a special room where the dead were kept. Maczka was able to observe the corpse and saw that there was only one leg. In the second case an abnormal woman was operated on by Dr. Fischer. When he left the operating room he carried with him a bundle wrapped up in linen about the size of an arm. He took this away with him. The prison nurse, Quernheim, informed Maczka that the whole arm with shoulder blade was removed from this woman. (*Tr. p. 1448.*)

The amputation of the arm and shoulder blade mentioned by Dr. Maczka obviously refers to the transplantation performed on the patient Ladisch at Hohenlychen. As to this, the defendant Fischer stated in his affidavit as follows:

"As a disciple of Lexer, Gebhardt had already planned long ago a free heteroplastic transplantation of bone. In spite of the fact that some of his co-workers did not agree, he was resolved to carry out such an operation on the patient, Ladisch, whose shoulder joint was removed because of a sarcoma.

"I and my medical colleagues urged professional and human objections up until the evening before the operation was performed, but Gebhardt ordered us to carry out the operations. Dr. Stumpfegger, in whose field of research this operation was, was supposed to perform the removal of the scapula at Ravensbrueck and had already made initial arrangements for it. However, because Professor Gebhardt required Doctor Stumpfegger to assist him in the actual transplantation of the shoulder to the patient Ladisch, I was ordered to go to Ravensbrueck and perform the operation of removal on that evening. I asked Doctors Gebhardt and Schulze to

describe exactly the technique which they wished me to follow. The next morning I drove to Ravensbrueck after I had made a previous appointment by telephone. At Hohenlychen I had already made the normal initial preparation for an operation, namely, scrubbing, etc., merely put on my coat, and went to Ravensbrueck and removed the bone.

"The camp physician who was assisting me in the operation continued with it while I returned to Hohenlychen as quickly as possible with the bone which was to be transplanted. In this manner the period between removal and transplantation was shortened. At Hohenlychen the bone was handed over to Professor Gebhardt, and he, together with Doctor Schulze and Doctor Stumpfegger, transplanted it." (*NO–228, Pros. Ex. 206.*)

Gebhardt admitted that he, together with Stumpfegger, personally performed the bone transplantation operation on Ladisch. He testified further that Fischer only removed the scapula, shoulder blade, from the Polish female inmate at Ravensbrueck. (*Tr. p. 4235.*) It is impossible to raise the arm above the horizontal if the scapula has been removed. (*Tr. p. 4235.*) Gebhardt further admitted that Stumpfegger reported to him on the bone experiments in Ravensbrueck concentration camp. (*Tr. p. 4235.*)

The affidavit of Gustawa Winkowska corroborates the testimony of Maczka concerning the transplantation of whole limbs and establishes that the experimental subjects were later killed. (*NO–865, Pros. Ex. 231.*)

The witness Karolewska was a subject in both the sulfanilamide and bone experiments. (*Tr. pp. 833, 836–7.*) She was operated on a total of six times. The first operation was conducted on 14 August 1942 by Fischer. (*Tr. p. 819.*) Gebhardt inspected her early in September. (*Tr. p. 821.*) She was sent back to her block on 8 September 1942, but was unable to walk and remained in bed for a week. On 16 September 1942 she was again taken to the hospital and operated on for the second time by Fischer. (*Tr. pp. 821–2.*) She left the hospital on 6 October 1942 and remained in bed for several weeks. Her leg did not heal until June 1943 (*Tr. pp. 822–3*). She filed a written protest with the camp commander, together with other experimental subjects in February 1943. In August 1943 she was operated on literally by force in the bunker at Ravensbrueck. Both her legs were cut open. These operations were carried out on five other Polish girls under indescribably filthy conditions. On 15 September 1943 a further operation was performed on her right leg by a doctor from Hohenlychen. Two weeks later her left leg was operated on and pieces of the shinbone were removed. She stayed in the hospital for 6 months—until the end of February 1944. (*Tr. pp. 828–9.*) Karolewska identi-

fied the defendants Gebhardt, Fischer, and Oberheuser as having participated in the experiments on her. (*Tr. pp. 818, 830.*)

The defendant Fischer participated in these experiments until at least 23 February 1943. On that date he carried out a second operation on Zofia Baj. (*NO–871, Pros. Ex. 227.*)

The most disgusting series of operations were those carried out in August 1943 in the bunker. The Polish girls selected had revolted and refused to report to the hospital. The barrack block in which they had barricaded themselves was then surrounded by male guards who carried these women off forcibly to the camp prison, known as the Bunker, where they were held down by these male guards and forcibly anaesthetized without any pre-operative care, and with their bodies still in a filthy condition from walking around the camp. The experimental subject Piasecka stated in her affidavit as follows:

> "I resisted and hit Trommer in the face and called him a bandit. He called some SS male guards who threw me on the floor and held me down while ether was poured over my face. There was no mask. I fought and resisted until I lost consciousness. I was completely dressed and my legs were filthy dirty from walking in the camp. As far as I know my legs were not washed. I saw my sister during this time unconscious on a stretcher, vomiting mucous." (*NO–864, Pros. Ex. 229.*)

Piasecka stated that this operation was carried out by Dr. Villmann who was an assistant doctor at Hohenlychen. A few weeks later two other assistant doctors to Gebhardt came and operated on her right leg. (*NO–864, Pros. Ex. 229.*)

In his testimony Gebhardt attempted to disassociate himself from these experiments. He admitted however that he received information from Stumpfegger about the experiments. (*Tr. pp. 4082, 4087–9.*) Stumpfegger was a former assistant of Gebhardt's and he stayed at Hohenlychen during the course of these experiments. Fischer assisted Stumpfegger and Gebhardt. (*Tr. pp. 4230, 4090.*) It is further established by Fischer's own affidavit that the plan for the experiments was worked out with the knowledge and approval of Gebhardt.

c. Selection from the Argumentation of the Defense

*EXTRACT FROM THE FINAL PLEA FOR DEFENDANT GEBHARDT**

The Experiments Concerning Bone, Muscle, and Nerve Regeneration and Bone Grafting

The defendant Gebhardt is also charged in the indictment with particular responsibility in the experiments, whose object according

*Final plea is recorded in mimeographed transcript, 15 July 1947, pp. 10874–10910.

to the indictment was the examination of the conditions under which the regeneration of bones, muscles, and nerves resulted, and under what conditions the grafting of bones was possible.

With regard to the general reasons why there can be no question of guilt, I refer to the statements I have already made in connection with the sulfanilamide experiments. These experiments, too, were occasioned by conditions of war and were to open up new ways of treating seriously wounded persons.

The evidence, however, has shown that the defendant Gebhardt, with a single exception, had nothing to do with these experiments. These experiments, insofar as they were concerned with the regeneration and grafting of bones, were carried out by Sturmbannfuehrer Dr. Stumpfegger. It is correct that Dr. Stumpfegger was assistant doctor in the clinic in Hohenlychen before the war, and to that extent subordinate to its chief doctor, Dr. Gebhardt. Dr. Stumpfegger, however, left in the early years of the war, and in the year 1942 became consulting physician to Reich Leader SS Himmler and later consulting physician to Hitler. The experiments carried out by him in Ravensbrueck were carried out on his own responsibility, and upon direct orders from the Reich Leader SS Himmler. Dr. Stumpfegger at that time was neither under the military nor the medical supervision of the defendant Karl Gebhardt. For the remainder, Dr. Stumpfegger limited himself to carrying out experiments in the removal and grafting of so-called bone splinters, the exact number of which can no longer be determined now, but which certainly did not exceed six to eight. These were aseptic operations, which constituted no danger to the life of the experimental subjects. The evidence has shown that the experimental subjects from whom the bone splinters were removed suffered no reduction in the function of their limbs. Besides, the examination of the transplantation process of bones achieved a research result that could not be attained from the animal experiments because of the variety of the stipulated regeneration areas caused by the location of the various species and for the other reasons given by Gebhardt.

The evidence has further shown that the experimental subjects were members of the resistance movement who had been condemned to death and who were in this way given an opportunity to obtain a pardon, and so to escape execution. In view of the fact that no direct responsibility for these experiments falls on the defendant Gebhardt, it is not necessary to go into the purpose of these experiments further at this time. It should, however, be emphasized once more that the experiments were to open up new possibilities in wartime surgery and restorative surgery on the wounded. In 1944, Dr. Ludwig Stumpfegger published the results of his experiments in the periodical for surgery the editor of which was Geheimrat Dr. Sauerbruch (vol. 259,

issue 9–12) and this article was also made available to the public in book form. I have submitted to the Court (*Gebhardt, Fischer, Oberheuser 6, Gebhardt, Fischer, Oberheuser Ex. 9*) a review of this work in the periodical, "Clinic and Practice" of February 1946 and refer to this for the details.

The defendant Karl Gebhardt would certainly not have hesitated to admit his responsibility for these experiments if he had actually been more closely connected with them, and if the experiments had taken place at his behest or under his medical supervision. There would have been little reason to deny this responsibility since the experiments concerned were completely without danger; they resulted in no reduction of the function of the limbs, and, moreover, no fatalities occurred. Furthermore, corresponding to the general practice in Germany, the work of Dr. Stumpfegger under the scientific responsibility of the defendant Gebhardt would have been made public if he had been directly concerned with the experiments, and if they had been carried out under his scientific supervision. Nor did the evidence prove that there were any experiments carried out in connection with muscle and nerve regeneration under the scientific supervision and by order of the defendant Gebhardt. It even seems doubtful that any such experiments were ever carried out in Ravensbrueck. The witnesses called before this court were unable to make any statements about this matter and it may be taken for granted that in any case the defendant Karl Gebhardt had nothing to do with these experiments. There was no point in carrying out such experiments as, long before the war, the surgical technique had already been developed on scientific principles and set down in a system. It covers plastic surgical bone regeneration but does not advocate free transplantation.

The only new field of scientific research taken up by Dr. Gebhardt during the war was that of experiments connected with nerve operations. These experiments were, however, carried out on animals by the special order and under the scientific supervision of the defendant Gebhardt himself. I am here referring to the affidavits given by the witnesses Koestler (*Gebhardt, Fischer, Oberheuser 22, Gebhardt, Fischer, Oberheuser Ex. 21*) and Brunner (*Gebhardt, Fischer, Oberheuser 21, Gebhardt, Fischer, Oberheuser Ex. 20*), and to the statements made by the defendant Gebhardt himself on the witness stand. I am further referring to the report of the Third Session East of the Consulting Specialists on 24–26 May 1943 (*Gebhardt, Fischer, Oberheuser 3, Gebhardt, Fischer, Oberheuser Ex. 10*) which I have pre-

sented in Court and which proves that during this session he himself and the aforementioned witness, Dr. Koestler, spoke about grafting operations in cases of nervous paralysis. This is the same report to which the witness Dr. Koestler referred in his affidavit of 27 February 1947.

Furthermore, I wish to draw the attention of this Court to the lecture given by the defendant Gebhardt in the same report on "Gymnastic Therapy and Mobilization of the Joints" which is also based upon clinical experience in Hohenlychen and also has nothing whatever to do with medical experiments on human beings. The evidence has further proved that the defendant Gebhardt was concerned with the transplantation of bones in one case only. This experiment was the free transplantation of a shoulder blade from one person to another. The defendant Gebhardt has given a detailed account of this on the witness stand and I am referring you to his statement on this point. Generally speaking, the following has to be added: The free transplantation of bones from one person to another is one of the great problems of restorative surgery which has yet to be solved. For decades, physicians have been trying to find a solution to this problem. As early as the end of the First World War, Geheimrat Lexer, the great teacher of the defendant Gebhardt, conducted experiments along these lines in 23 cases, aiming at the replacement of completely destroyed bones. The terrible injuries which occurred during the Second World War made this problem still more urgent and it is, therefore, understandable that in view of the progress Dr. Stumpfegger had made in his research, he was ordered by the Reich Leader SS to make use of this research result in the direct transplantation of bones. The defendant Gebhardt himself did not take any steps in this direction. He himself has stated his fundamental attitude as to this question and I refer to his own statements. Only in one case did he give his approval, viz: when Dr. Stumpfegger carried out the experiment of transplanting a shoulder blade. The order to do this was given by the Reich Leader SS. This experiment was justified in this particular case as it took place for the benefit of a patient in serious danger. The experimental person from whom the shoulder blade was taken was also a member of the resistance movement and she, too, thus escaped execution. Furthermore, the shoulder blade in question belonged to a hand restricted in its function.

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d. Evidence

Prosecution Documents

Doc. No.	Pros. Ex. No.	Description of Document	Page
NO–875	230	Affidavit of Mrs. Zdenka Nedvedova-Nejedla, M. D., of Prague, concerning experimental operations conducted on fellow inmates at Ravensbrueck concentration camp.	400
NO–861	232	Affidavit of Sofia Maczka, 16 April 1946, concerning experimental operations on inmates of the Ravensbrueck concentration camp.	402
NO–579	288	Phosphorous burns artificially inflicted on inmates of the Buchenwald concentration camp. (*See Selections from the Photographic Evidence of the Prosecution.*)	904

Defense Documents

Doc. No.	Def. Ex. No.	Description of Document	Page
Gebhardt, Fischer, Oberheuser 6	Gebhardt, Fischer, Oberheuser Ex. 9	Extract from "Clinic and Practice", weekly journal for the practicing physician, regarding bone transplantation.	405
Gebhardt, Fischer, Oberheuser 21	Gebhardt, Fischer, Oberheuser Ex. 20	Extracts from affidavit of Dr. Karl Friedrich Brunner, 14 March 1945, concerning scientific experiments conducted at the clinic of Hohenlychen.	407
Gebhardt, Fischer, Oberheuser 22	Gebhardt, Fischer, Oberheuser Ex. 21	Extract from affidavit of Dr. Josef Koestler, 27 February 1947, concerning Dr. Gebhardt's activities.	408

Testimony

Extracts from the testimony of prosecution witness Miss Karolewska---- 409

Extract from the testimony of the prosecution expert witness Dr. Leo Alexander. 417

TRANSLATION OF DOCUMENT NO–875 PROSECUTION EXHIBIT 230

AFFIDAVIT OF MRS. ZDENKA NEDVEDOVA-NEJEDLA, M. D., OF PRAGUE, CONCERNING EXPERIMENTAL OPERATIONS CONDUCTED ON FELLOW INMATES AT RAVENSBRUECK CONCENTRATION CAMP

1. I, Zdenka Nedvedova-Nejedla, M. D. came to Ravensbrueck concentration camp in a transport from Auschwitz on 19 August 1943, and I worked in the sick bay as a doctor prisoner from September 1943 until 30 May 1945. In the beginning I worked in the Department for Contagious Diseases at Station No. 1 and the Ambulatory. Besides this, I was in charge of Sucking Block from the fall of 1944 until May 1945.

2. Of the victims of experimental operations, I nursed personally Helena Piasecka, who was suffering from chronic osteomyelitis after completed operation of both shin bones. I knew that these operations were performed under Professor Gebhardt's supervision by Doctor Fischer, and a woman, Doctor Oberheuser, from the SS Hospital Hohenlychen, but I do not know which one of them had operated on Piasecka. The operation was performed in the "bunker," camp prison, where there were not even the most primitive sanitary installations and even fewer aseptic installations. Her general condition was good, but the defect in both bones made her an invalid for life. Before the operation Piasecka was completely healthy.

3. All women on whom experimental operations had been performed were placed in one block and they were generally known as "rabbits," so that I saw the effects of the operations on those women who had survived them. In each case of abbreviation of limbs, muscular atrophy of the highest degree set in, proving a grave injury of nerves during operations and deep indrawn scars where parts of muscles had festered away.

4. From lay reports of nursing personnel without any special training, I tried to construct the types of experimental operations.

a. Culture of virulent germs (streptococci, staphylococci, maybe even tetanus and gas phlegmon) were injected subcutaneously, intramuscularly, and even directly into bones. These were the attempts to produce osteomyelitis experimentally. The resulting sepsis was checked by daily examination of the blood and urine to test the effectiveness of new medicaments of the sulfanilamide group.

b. Parts of long bones, as much as 5 centimeters (fibulae and tibiae), were removed and in some cases replaced by metal or left without connection. These operations were probably to prove the inability of bone to grow without periosteum.

c. High amputations were performed; for example, even whole arms with shoulder blade or legs with osiliaca were amputated. These operations were performed mostly on insane women who were immediately killed after the operation by a quick injection of evipan. All specimens gained in operations were carefully wrapped up in sterile gauze and immediately transported to the SS hospital nearby (Hohenlychen presumably), where they were to be used in the attempt to heal the injured limbs of wounded German soldiers.

5. Operations were performed on 1 Yugoslav, 1 Czech, 2 Ukrainian, 2 German, and about 18 Polish women, of whom 6 were operated on by force in the bunker with the help of SS men. Two of them were shot after their operation wounds had healed. After operations, no one except SS nurses was admitted to the persons operated on, whole nights they lay without any assistance and it was not permitted to

administer sedatives even against the most intensive postoperational pains. From the persons operated on, 11 died or were killed, and 71 remained invalids for life.

6. The report mentioned in paragraphs 3 to 5 was prepared on the basis of evidence given to me at Ravensbrueck in the autumn of 1943 by these fellow prisoners: Sofia Maczka, M. D., Poland; Isa Siczynska, medical student, Krakow, Poland; Jola Krzyzanowska, medical student, Krakow, Poland; Krisa Iwanska, medical student, Krakow, Poland; Emilie Skrbkova, medical student, Praha, Czechoslovakia; and Inka Katnarova, M. D., Hradec Kralove, Czechoslovakia.

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TRANSLATION OF DOCUMENT NO–861
PROSECUTION EXHIBIT 232

AFFIDAVIT OF SOFIA MACZKA*, 16 APRIL 1946, CONCERNING EXPERIMENTAL OPERATIONS ON INMATES OF THE RAVENSBRUECK CONCENTRATION CAMP

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Information concerning the experimental operations which took place in Ravensbrueck concentration camp.

The operations were carried out in the period between the summer of 1942 and the summer of 1943. The operations were conducted in the camp hospital, under the direction of Professor Dr. Gebhardt, SS Brigadefuehrer. Professor Gebhardt was the head of the Hohenlychen sanatorium at Hohenlychen (Mecklenburg). The operations were conducted with the help of Dr. Fischer, who was Professor Gebhardt's assistant. There was also another assistant whose name I do not know. The following camp doctors participated in this matter: Dr. Herta Oberheuser, Dr. Rolf Rosenthal, Dr. Schiedlausky; all German nurses who were employed there at the time and two German prisoners (Schutzhaftgefangene), Gerda Quernheim and Fina Pautz, gave assistance. Polish political prisoners in protective custody, from the transports from Warsaw and Lublin, numbering 74, were chosen as victims. All those who were chosen were young, healthy, and well-built women. Many were college or university students. The youngest was 16 years of age, the oldest 48 years of age. The operations were to be carried out for scientific purposes, but they had nothing to do with science. They were carried out under horrible conditions. The doctors and the assisting personnel were not trained properly medically. Conditions were neither aseptic nor hygienic. After operations, the patients were left in shocking rooms without medical help, without nursing or supervision. The dressings

*Dr. Maczka appeared as witness before the Tribunal, 10 January 1947, Tr. pp. 1430–1462.

were made according to the whim of the doctors with unsterilized instruments and compresses. Dr. Rosenthal, who did most of the dressings, excelled himself in sadism. In the summer of 1943 the last operations were carried out in the "bunker". "Bunker" is the name of the horrible prison in the camp. The victims were taken there because they resisted, and there in the cell their dirty legs were operated on. This was the "scientific atmosphere" in which the "scientific" operations were carried out.

All operations were carried out on the leg and all under anesthetic. The operations were divided into two main groups:

1. Operations for infecting the patient.
2. Experimental aseptic operations.

The soft part of the calf of the leg was opened and the open wounds were infected with bacteria which were introduced into the wounds. The following were used: staphylococcus aureus, oedema malignum (clostridium oedematis maligni), gas gangrene bacillus (clostridium perfrim gens), and tetanus. Weronika Kraska was infected with tetanus. She died after a few days. Kazimiera Kurowska was infected with gas gangrene bacillus; she died after a few days. The following were infected with oedema malignum: Aniela Lefanowicz, Zofia Kiecol, Alfreda Prus, and Maria Kusmierczuk. The first three died after a few days; Maria Kusmierczuk survived the infection. She was lying ill for more than a year and became a cripple, but she is alive and is living evidence of the experiments. Mostly pyrogen stimulants were employed. The wounds were stitched after the infection and serious illness began. Many of the patients were ill for months and almost all of them became cripples.

Why did Professor Gebhardt, with his education, carry out these experiments? To test the new drugs of the German pharmaceutical industry; mostly cibazol and albucid were used. Even tetanus was treated in that way.

The results of the treatment were not checked, or if they were, it was done in such an inadequate and superficial manner, that it was of no value.

The aseptic, experimental operations consisted of bone experiments, muscle experiments, and nerve experiments.

The bone experiments were checked by X-ray photographs. As ward attendant I had to do all the X-ray photographs. In this way I was given the opportunity of gaining an insight in this matter. The following were carried out: (*a*) bone breaking; (*b*) bone transplantation; and (*c*) bone grafting.

a. On the operating table, the bones of the lower part of both legs were broken into several pieces with a hammer, later they were joined with clips (for instance Janiga Marczewska) or without clips (for instance Leonarda Bien) and were put into a plaster case. This

was removed after several days and the legs remained without plaster casts until they healed.

b. The transplantations were carried out in the usual way, except that whole pieces of the fibula were cut out, sometimes with periosteum, sometimes without periosteum. The most typical operation of this kind was carried out on Krystyna Dabska.

c. Bone grafting. These operations were with the school of Professor Gebhardt. During the preparatory operation two bone splints were put on the tibia of both legs; during the second operation such bone splints were cut out together with the attached bones and were taken to Hohenlychen. As a supplement to the bone splint operations such operations were also carried out on two prisoners in protective custody who suffered from deformation of bones of the osteomyelitis type. These two were not Poles, one of them was a German who was a Jehovah's Witness, Maria Konwitschka, and the other was a Ukrainian, Maria Hretschana. It was interesting for Professor Gebhardt to see how the diseased bones would react to such an operation.

The muscle experiments consisted of many operations, always on the same spot, the upper or lower part of the leg. At each further operation larger and larger pieces of muscles were cut out. Once a small piece of bone was planted into a muscle (this happened to Babinska). During nerve operations parts of nerves were removed (for instance Barbara Pytlewska).

What problem did Professor Gebhardt and his school wish to solve by these experiments? The problem of the regeneration of bones, muscles, and nerves.

Was the thing carried out? No. It was not checked at all, or only insufficiently. I do not know what was done at Hohenlychen with those pieces of bone, muscle, and nerves which were cut out and taken there.

What was the fate of the patients after they left the hospital? Almost all of the patients became cripples, and suffered very much as a result of these operations. Even more severe was the moral torture inflicted on them since they lived under the conviction that they would all be shot in order that they should not be evidence of these murderous operations. The camp authorities—Commandant Suhren, Adjutant Braeuning and Chief Supervisor Binz—ensured through their orders that the victims should not forget that they were condemned to death. In the meantime, six of the patients were shot after surviving the operations.

* * * * * * *

As a supplement to these operations I am submitting a description of "special operations" which were carried out at the same time.

A few abnormal prisoners (mentally ill) were chosen and brought to the operating table, and amputations of the whole leg (at the hip joint) were carried out, or on others, amputation of the whole arm (with the shoulder blade) were carried out. Afterwards the victims (if they still lived) were killed by means of evipan injections and the leg or arm was taken to Hohenlychen and served the purposes known to Professor Gebhardt. Ten such operations, approximately, were carried out.

During the whole of the time these operations were carried out, I was employed as a worker in the ward and investigated this matter risking my own life, with the idea that it was my duty, if I were saved, to tell the truth to the world. I conclude my statement with two questions: What kind of recompense can the world offer to those who were operated on in such a manner? What kind of justice has the world for those who carried out such operations?

[Signed] Dr. Maczka, Zofia
Dr. med. Zofia Maczka
X-ray specialist from Krakow. Former political prisoner in protective custody No. 7403 at Ravensbrueck, now in Stockholm, Serafimerlasarettet, Roentgen.

Stockholm, 16 April 1946

TRANSLATION OF GEBHARDT, FISCHER, OBERHEUSER DOCUMENT 6
GEBHARDT, FISCHER, OBERHEUSER DEFENSE EXHIBIT 9

EXTRACT FROM "CLINIC AND PRACTICE", WEEKLY JOURNAL FOR THE PRACTICING PHYSICIAN, REGARDING BONE TRANSPLANTATION

Editors: Dr. Herbert Volkmann and Dr. V. E. Mertens, Munich 2, Alfonsstrasse 1

No. 1 Munich, February 1946 Volume 1

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Discussions and extracts

[page 14]

Ludwig Stumpfegger—Hohenlychen: The free autoplastic bone transplantation in the restorative surgery of limbs—experiences and results.

During the past 10 years, 471 free autoplastic bone transplantations were carried out in Hohenlychen. Recent research results clearly showed that apart from the osteoplastic activity, a metaplastic formation of new bone occurs in the tissue. The newly formed bone trabeculae between transplant and old bone begin to connect with those formed in the osteoid tissue in the seventh week, and in this way constitute the bone connection between the graft and the original bone which have completely grown together in the ninth week. After the twelfth week no old bone can be detected in the entire region of the original graft, but only new bone trabecula. The question of the ever present hematoma can be answered in this way: a blood extravasation, lying in the gap between the transplant and the old bone, and not being subject to pressure, represents an adequate stimulation to the mesenchymal germinal tissue formation, while the large hemorrhage represents a negative stimulation and permits only a scarry connection of the transplant and the defective stump. The periosteum is no more important than the other layers, it is transplanted with the bone, because in connection with the bone it has osteogenetic properties, but above all it effects a speedy supply from the surroundings. A careful technique must be employed to spare the tissue layers, and bleeding must be stanched. Foreign bodies in the shape of wire slings to hold the transplant usually heal well into the body. Firm fixation in a plaster cast safeguards the result. When the graft has taken, a careful start with remedial exercises may be made in the third or fourth month. The clinical use of free bone transplantations is discussed with the help of numerous examples and many X-ray illustrations. The first task of the bone transplant to bridge over a gap in the bone is to provide sufficient support for the defective stump and, therefore, it has to be fairly strong. Bone splinters in the lower arm have roentgenologically completely taken after 1–1½ years, those in the tibia after 1½–2 years. The free bone transplant, some distance from the joints, has proved to be particularly valuable with the usual dislocations of the shoulder and the hip joints. The overlapping bone ridge prevents the bone from coming out of the articular cavity. In the course of years, the piece lying in the soft parts is considerably reduced, so that only a small bone ridge remains. The graft effects a regeneration of the damaged edge of the articular cavity and in this way prevents further dislocation. Bone transplants in bone gaps after removal of growths are subject to special conditions of taking. Hyperemic phenomena in the zone of the tumor edge in the form of a mild inflammation, possibly also fermentation processes,

accelerate the taking of the transplant compared with the process in healthy tissue. Increased local resorption processes, occasionally with spontaneous fractures, infrequently prevail, but they again are apt to heal well. In wounds which heal with difficulty owing to suppurative inflammations, there is a great danger of the transplant being pushed out. When the whole transplant region is inflamed, total sequestration cannot be stopped. If suppuration remains localized, partial sequestration of the transplantation must be awaited. (*German Surgical Journal, 1944, Vol. 299, H. 9–12. H. Floercken-Frankfurt am Main.*)

TRANSLATION OF GEBHARDT, FISCHER, OBERHEUSER DOCUMENT 21

GEBHARDT, FISCHER, OBERHEUSER DEFENSE EXHIBIT 20

EXTRACTS FROM AFFIDAVIT OF DR. KARL FRIEDRICH BRUNNER, 14 MARCH 1943, CONCERNING SCIENTIFIC EXPERIMENTS CONDUCTED AT THE CLINIC OF HOHENLYCHEN

* * * * * * *

I can state the following regarding the scientific experiments at the clinic [of Hohenlychen]: It was in accordance with the principles of the clinic and, therefore, of the chief and his deputy to collect scientific results arrived at through clinical observations. All reports at congresses and lectures as well as publications were based on these results. The scientific work and research were normally determined by the observations made on the patients. In addition to this, and in order to clarify the question of surgical treatment of nerve injuries, experiments on dogs were carried out in close collaboration with Gebhardt—first by Dr. Koestler in 1939–40, later by myself from 1943 to the end of the war. I was ordered by Dr. Gebhardt to carry out the experiments on animals at the training and experimental station for dogs [Hundelehr- und Versuchsanstalt], which establishment was situated outside the concentration camp Ravensbrueck, and I was strictly cautioned not to enter into any kind of contact with the concentration camp itself. The animal experiments were strictly continued until the end of the war. The results were never published because of war conditions.

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Regarding Dr. Stumpfegger, I can state that he was an assistant of the clinic in peacetime, before I arrived. At the outbreak of war in 1939 he joined the Waffen SS, and was then, as far as I know, from 1942 onwards an escorting physician of Himmler. I did not see

Dr. Stumpfegger on my return to Hohenlychen in autumn 1943, nor had he any official connection with the clinic up to the end of the war, either in a medical or in a military sense. He did not have to report his return or departure to the chief physician or to his deputy. His family, however, still lived at Hohenlychen. I still met him occasionally outside the medical sphere. I emphasize that during my presence at the clinic from 1 September 1943 up to the end of the war, as far as I know—and finally I was directing the clinic—no assistant was drafted from Hohenlychen to Ravensbrueck.

I know that the specialist in pulmonary diseases, Dr. Heissmeyer, was working as an assistant and later as chief physician in the so-called sanatorium Hohenlychen even before Professor Gebhardt took over Hohenlychen. This sanatorium was strictly detached from the surgical wards of the hospital at Hohenlychen and was not under the professional supervision of the chief physician nor of his deputy; i. e., Dr. Heissmeyer looked after his patients without any supervision by the surgeon, he made no reports to the chief or his deputy, he did not participate in the daily discussions of the physicians, he had his own staff of assistants and carried out his treatments and operations independently; he also planned his duty journeys independently and made these without reporting to the chief or his deputy on departure or return.

TRANSLATION OF GEBHARDT, FISCHER, OBERHEUSER DOCUMENT 22
GEBHARDT, FISCHER, OBERHEUSER DEFENSE EXHIBIT 21

EXTRACT FROM AFFIDAVIT OF DR. JOSE KOESTLER, 27 FEBRUARY 1947, CONCERNING DR. GEBHARDT'S ACTIVITIES

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When Professor Dr. Karl Gebhardt and I, at the Third Conference of Consulting Specialists of the German Wehrmacht in May 1943, lectured on surgical aid for peripheral nerve damage, we were, on the one hand, interpreting the results of animal experiments carried out on dogs from 1938 to 1940 in the Langenbeck-Virchow Hospital, Berlin, and in the institutes of Professor Holz (Institute for Experimental Hormone and Cancer Research) and Professor Ostertag (Pathological Institute), and, on the other hand, announcing surgical methods as they had been frequently used during the previous years.

Under the title of "Preparatory and Restorative Surgery in cases of Peripheral Nerve Damage," I recorded these experiences in the "German Journal for Surgery," volume 259, Nos. 1–4, 1943, and in my habilitation paper (1943, University of Berlin).

I emphasize expressly that this series of experiments was carried out exclusively on animals.

From 1 July 1938 to 26 August 1939 I was in the Red Cross hospital at Hohenlychen (Department for Sport and Industrial Injuries). During the following war years, after I was drafted into the Wehrmacht, I worked there repeatedly for short periods. I am convinced that the medical care there was on an especially high level and that Professor Gebhardt as chief physician did everything possible to improve the treatment and its results.

EXTRACTS FROM THE TESTIMONY OF PROSECUTION WITNESS MISS KAROLEWSKA*

DIRECT EXAMINATION

* * * * * * *

MR. MCHANEY: What is your name, please?

WITNESS KAROLEWSKA: Karolewska.

Q. And that is spelled K-a-r-o-l-e-w-s-k-a?

A. Yes.

Q. Were you born on 15 March 1909 at Yeroman?

A. I was born on 15 March 1909 in Yeroman.

Q. You are a citizen of Poland?

A. Yes, I am a Polish citizen.

Q. And have you come here as a voluntary witness?

A. Yes, I came here as a voluntary witness.

Q. What is your home address?

A. Warsaw, Inzynierska Street, No. 9, Flat No. 25.

Q. Are you married?

A. No.

Q. Are your parents living?

A. No, my parents are dead.

Q. Will you tell the Tribunal what education you have received?

A. I finished elementary school, and completed the training school for teachers in 1928.

Q. And what did you do between 1928 and the beginning of the war in 1939?

A. I worked as a teacher in a children's school in Grudenz.

Q. And when did you leave that post?

A. I finished my work in June 1939 and went on holiday.

Q. And did you go back to this position after your holiday?

A. No, I did not go back because the war broke out and I stayed in Lublin.

Q. And what did you do while you were in Lublin?

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*Complete testimony is recorded in mimeographed transcript, 20 Dec. 1946, pp. 815–832.

A. I lived with my sister and did not work at all.

Q. Were you a member of the Polish Resistance Movement?

A. Yes, I was.

Q. And what did you do in the Polish Resistance Movement?

A. I was a messenger.

Q. And were you ever arrested for your activity in the Resistance Movement?

A. I was arrested on the 13th of February 1941 by the Gestapo.

Q. Was your sister arrested with you?

A. Two sisters and two brothers-in-law were arrested with me on the same day.

Q. What happened to you after you were arrested?

A. I was taken to the Gestapo.

Q. And what did the Gestapo do with you?

A. The first day the Gestapo took down my personal data and sent me to the prison in Lublin.

Q. And then what happened? Just go on and tell the complete story about what the Gestapo did with you and where you went.

A. I stayed 2 weeks in the prison in Lublin and then I was taken again to the Gestapo. There I was interrogated and they wanted to force me to confess what kind of work I used to do in the Resistance Movement. The Gestapo wanted me to give them the names of persons with whom I worked. I did not want to tell them the names and, therefore, I was beaten. I was beaten by one Gestapo man, with brief intervals, for a very long time. Then I was taken to a cell. Two days later, at night, I was taken again to the Gestapo for interrogation. There I was beaten again. I stayed in the Gestapo office one week and then I was taken back into the prison in Lublin. I stayed in the prison till 21 September 1941. Then I was transported with other prisoners to the concentration camp Ravensbrueck, where I arrived on the 23d of September 1941.

Q. Now, Witness, before you continue, will you tell the Tribunal whether you were ever tried by any court for the crime of being a member of the Resistance Movement?

A. I was only interrogated by the Gestapo and I think that the sentence must have been passed in my absence because no sentence was ever read out to me.

Q. All right. Will you tell the Tribunal what happened to you at Ravensbrueck?

A. At Ravensbrueck our dresses were taken away from us and we received the regular prison dress. Then I was sent to the block and I stayed in quarantine for 3 weeks. After 3 weeks we were taken to work. The work was hard physical work. In the spring I was given other work and I was transferred to the workshop, which was called

in German "Betrieb." The work I did there was also very hard, and one week I had to work in the daytime and the next week at night. In the spring the living conditions in the camp grew worse and worse, and hunger began to reign in the camp. The food portions were smaller. We were undernourished, very exhausted, and we had no strength to work. In the spring of the same year, shoes and stockings were taken away from us and we had to walk barefoot. The gravel in the camp hurt our feet. The most tiring was the so-called "roll calls", which we had to stand several hours, sometimes even 4 hours. If a prisoner tried to put a piece of paper underneath her feet, she was beaten and ill-treated in an inhuman way. We had to stand at attention at the roll call place and we were not allowed to move our lips, because then we were supposed to be praying and we were not allowed to pray.

Q. Now, Witness, were you operated on while you were in the Ravensbrueck concentration camp?

A. Yes, I was.

Q. When did that happen?

A. On 22 July 1942, 75 prisoners from our transport that come from Lublin were summoned to the chief of the camp. We stood outside the camp office, and present were Kogel, Mandel, and one person whom I later recognized as Dr. Fischer. We were afterwards sent back to the block and we were told to wait for further instructions. On the 25th of July, all the women from the transport of Lublin were summoned by Mandel, who told us that we were not allowed to work outside the camp. Also, five women from the transport that came from Warsaw were summoned with us at the same time. We were not allowed to work outside the camp. The next day 75 women were summoned again and we had to stand in front of the hospital in the camp. Present were Schiedlausky, Oberheuser, Rosenthal, Kogel, and the man whom I afterwards recognized as Dr. Fischer.

Q. Now, Witness, do you see Oberheuser in the defendants' dock here?

INTERPRETER: The witness asks for permission to go near to the dock to be able to see them.

MR. MCHANEY: Please do.

(Witness walks to dock and points to Dr. Oberheuser.)

MR. MCHANEY: And Fischer?

(Witness points to Dr. Fischer.)

MR. MCHANEY: I will ask that the record show that the witness properly identified the defendants, Oberheuser and Fischer.

PRESIDING JUDGE BEALS: The record will show that the witness correctly identified the defendants Oberheuser and Fischer.

MR. MCHANEY: Witness, you have told the Tribunal that in July

1942, some 75 Polish girls, who were in the transport from Lublin, were called before the camp doctors in Ravensbrueck.

WITNESS KAROLEWSKA: Yes.

Q. Now, were any of these girls selected for an operation?

A. On this day we did not know why we were called before the camp doctors and on the same day 10 out of 25 girls were taken to the hospital, but we did not know why. Four of them came back and six stayed in the hospital. On the same day six of them came back to the block after having received some injection, but we did not know what kind of injection. On the 1st of August, those six girls were called to the hospital again; those girls who received injections were kept in the hospital, but we could not get in touch with them to hear from them why they were put in the hospital. A few days later, one of my comrades succeeded in getting close to the hospital and learned from one of the prisoners that all were in bed and that their legs were in casts. On the 14th of August, the same year, I was called to the hospital and my name was written on a piece of paper. I did not know why. Besides me, eight other girls were called to the hospital. We were called at a time when executions usually took place and I thought I was going to be executed because some girls had been shot down before. In the hospital we were put to bed and the ward in which we stayed was locked. We were not told what we were to do in the hospital and when one of my comrades put the question she got no answer but an ironical smile. Then a German nurse arrived and gave me an injection in my leg. After this injection I vomited and I was weak. Then I was put on a hospital cot and they brought me to the operating room. There, Dr. Schiedlausky and Rosenthal gave me the second intravenous injection in my arm. A while before, I noticed Dr. Fischer, who left the operating theater and had operating gloves on. Then I lost consciousness and when I revived I noticed that I was in a proper hospital ward. I recovered consciousness for a while and I felt severe pain in my leg. Then I lost consciousness again. I regained consciousness in the morning, and then I noticed that my leg was in a cast from the ankle up to the knee and I felt very great pain in this leg and had a high temperature. I noticed also that my leg was swollen from the toes up to the groin. The pain was increasing and the temperature, too, and the next day I noticed that some liquid was flowing from my leg. The third day I was put on a hospital trolley and taken to the dressing room. Then I saw Dr. Fischer again. He had on an operating gown and rubber gloves on his hands. A blanket was put over my eyes and I did not know what was done with my leg but I felt great pain and I had the impression that something must have been cut out of my leg. Those present were Schiedlausky, Rosenthal, and Oberheuser. After the dressing was changed I was again put in the regular hospital ward. Three days later I was again

taken to the dressing room, and the dressing was changed by Doctor Fischer with the assistance of the same doctors, and I was also blindfolded. I was then sent back to the regular hospital ward. The next dressings were made by the camp doctors. Two weeks later we were all taken to the operating theater again, and put on the operating tables. The bandage was removed, and that was the first time I saw my leg. The incision went so deep that I could see the bone. We were told then that there was a doctor from Hohenlychen, Doctor Gebhardt, who would come and examine us. We were waiting for his arrival for 3 hours, lying on our tables. When he came, a sheet was put over our eyes, but they removed the sheet and I saw him for a short moment. Then we were taken back to our regular wards. On 8 September I went back to the block. I couldn't walk. The pus was draining from my leg; the leg was swollen up and I could not walk. In the block, I stayed in bed for one week; then I was called to the hospital again. I could not walk and I was carried by my comrades. In the hospital I met some of my comrades who were there after the operation. This time I was sure I was going to be executed because I saw an ambulance standing outside the office, which was used by the Germans to transport people intended for execution. Then we were taken to the dressing room where Doctor Oberheuser and Doctor Schiedlausky examined our legs. We were put to bed again, and on the same day, in the afternoon, I was taken to the operating theater and the second operation was performed on my leg. I was put to sleep in the same way as before, having received an injection. This time I again saw Doctor Fischer. I woke up in the regular hospital ward, and I felt a much greater pain and had a higher temperature.

The symptoms were the same. The leg was swollen and the pus flowed from my leg. After this operation, the dressings were changed by Dr. Fischer every 3 days. More than 10 days afterwards, we were again taken to the operating theater and put on the table; and we were told that Dr. Gebhardt was going to come to examine our legs. We waited for a long time. Then he arrived and examined our legs while we were blindfolded. This time other people arrived with Dr. Gebhardt, but I don't know their names, and I don't remember their faces. Then we were carried on hospital cots back to our rooms. After this operation I felt still worse, and I could not move. While I was in the hospital, Dr. Oberheuser treated me cruelly.

When I was in my room I remarked to fellow prisoners that we were operated on in very bad conditions and left here in this room and that we were not even given a chance to recover. This remark must have been heard by a German nurse who was sitting in the corridor, because the door of our room leading to the corridor was opened. The German nurse entered the room and told us to get up

and dress. We answered that we could not follow her order because we had great pains in our legs and we could not walk. Then the German nurse came into our room with Dr. Oberheuser. Dr. Oberheuser told us to dress and come to the dressing room. We put on our dresses; and, being unable to walk, we had to hop on one leg into the operating theater. After one hop we had to rest. Dr. Oberheuser did not allow anybody to help us. When we arrived at the operating theater, quite exhausted, Dr. Oberheuser appeared and told us to go back, because the change of dressing would not take place that day. I could not walk, but somebody, a prisoner whose name I don't remember, helped me back to the room.

Q. Witness, you have told the Tribunal that you were operated on the second time on the 16th of September 1942? Is that right?

A. Yes.

Q. When did you leave the hospital after this second operation?

A. After the second operation I left the hospital on 6 October.

Q. Was your leg healed at that time?

A. My leg was swollen up, caused me great pain, and the pus drained from my leg.

Q. Were you able to work?

A. I was unable to work, and I had to stay in bed because I could not walk.

Q. Do you remember when you got up out of bed and were able to walk?

A. I stayed in bed several weeks, and then I got up and tried to walk.

Q. How long was it until your leg was healed?

A. The pus was flowing from my leg till June 1943; and at that time my wound was healed.

Q. Were you operated on again?

A. Yes, I was operated on again in the bunker.

Q. In the bunker? That is not in the hospital?

A. Not in the hospital but in the bunker.

Q. Will you explain to the Tribunal how that happened?

A. May I ask permission to tell something which happened in March 1943, March or February 1943?

Q. All right.

A. At the end of February 1943, Dr. Oberheuser called us and said, "Those girls are new guinea pigs"; and we were very well known under this name in the camp. Then we understood that we were persons intended for experiments, and we decided to protest against the performance of those operations on healthy people.

We drew up a protest in writing and we went to the camp commandant. Not only those girls who had been operated on before but other girls who were called to the hospital came to the office. The

girls who had been operated on used crutches and they went without any help.

I would like to tell you the contents of the petition made by us. "We, the undersigned, Polish political prisoners, ask the commandant whether he knows that since the year 1942 experimental operations have taken place in the camp hospital, under the name guinea pigs, explaining the meaning of those operations. We ask whether we were operated on as a result of sentences passed on us because, as far as we know, international law forbids the performance of operations even on political prisoners."

We did not get any answer; and we were not allowed to talk to the commandant. On 15 August 1943, a policewoman came and read off the names of 10 new prisoners. She told us to follow her to the hospital. We refused to go to the hospital, because we thought that we were intended for a new operation. The policewoman told us that we were probably going to be sent to the factory for work outside the camp. We wanted to make sure whether the labor office was open because it was Sunday. The policewoman told us that we had to go to the hospital to be examined by a doctor before we went to the factory. We refused to go then because we were sure that we would be kept in the hospital and operated on again. All prisoners in the camp were told to stay in the blocks. All of the women who lived in the same block where I was were told to leave the block and stand in line in front of Block 10 at a certain time. Then the Overseer Binz appeared and called out 10 names, and my name was among them.

We went out of the line and stood before Block 9 in line. Then Binz said: "Why do you stand in line as if you were to be executed?" We told her that operations were worse for us than executions and that we would prefer to be executed rather than to be operated on again. Binz told us that she might give us work; there was no question of our being operated on, but we were going to be sent for work outside the camp. We told her that she must know that prisoners belonging to our group were not allowed to leave the camp and go outside. Then she told us to follow her into her office, that she would show us a paper proving that we were going to be sent for work to the factory outside the camp. We followed her and we stood before her office. She was in her office for a while and then went out and went to the canteen where the camp commandant was. She had a conference with him probably asking him what to do with us. We stood in front of the office for half an hour. In the meantime one fellow prisoner who used to work in the canteen walked past. She told us that Binz had asked for help from SS men to take us to the hospital by force. We stood for a while and then Binz came out of the canteen accompanied by the camp commandant. We stood for a while near the

camp gate. We were afraid that SS men would come to take us, so we ran away and mixed with other people standing in front of the block. Then Binz and the camp police appeared. They drove us out from the lines by force. She told us that she was putting us into the bunker as punishment for not following her orders. Five prisoners were put into each cell although one cell was only intended for one person. The cells were quite dark, without lights. We stayed in the bunker the whole night long and the next day. We slept on the floor because there was only one couch in the cell. The next day we were given a breakfast consisting of black coffee and a piece of dark bread. Then we were locked in again. People were walking up and down the corridor of the bunker the whole time. The same day in the afternoon we learned our fate. The woman guard of the bunker unlocked our cell and took me out. I thought that I was to be interrogated or beaten. She took me down the corridor. She opened one door and behind the door stood SS man Dr. Trommel. He told me follow him upstairs. Following Dr. Trommel I noticed there were other cells, with beds and bedding. He put me in one of the cells. Then he asked me whether I would agree to a small operation. I told him that I did not agree to it because I had already undergone two operations. He told me that this was going to be a very small operation and that it would not harm me. I told him that I was a political prisoner and that operations could not be performed on political prisoners without their consent. He told me to lie down on the bed; I refused to do so. He repeated it twice. Then he went out of the cell and I followed him. He went quickly downstairs and locked the door. Standing in front of the cell I noticed a cell on the opposite side of the staircase, and I also noticed some men in operating gowns. There was also one German nurse ready to give an injection. Near the staircase stood a stretcher. That made it clear to me that I was going to be operated on again in the bunker. I decided to defend myself to the last. In a moment Trommel came back with two SS men. One of these SS men told me to enter the cell. I refused to do it, so he forced me into the cell and threw me on the bed.

Dr. Trommel took me by the left wrist and pulled my arm back. With his other hand he tried to gag me, putting a piece of rag into my mouth, because I shouted. The second SS man took my right hand and stretched it. Two other SS men held me by my feet. Immobilized, I felt somebody giving me an injection. I defended myself for a long time, but then I grew weaker. The injection had its effect; I felt sleepy. I heard Trommel saying, "That is all."

I regained consciousness again, but I don't know when. Then I noticed that a German nurse was taking off my dress, I then lost consciousness again; I regained it in the morning. Then I noticed that

both my legs were in iron splints and were bandaged from the toes up to the groin. I felt a severe pain in my feet, and had a temperature.

On the afternoon of the same day, a German nurse came and gave me an injection, in spite of my protests; she gave me this injection in my thigh and told me that she had to do it.

Four days after this operation a doctor from Hohenlychen arrived, again I was given an injection to put me to sleep, and as I protested he told me that he would change the dressing; I felt a higher temperature and a greater pain in my legs.

* * * * * * *

Q. How many times did you see Gebhardt?

A. Twice.

Q. I will ask you to step down and walk over to the defendants' dock and see whether or not you find the man Gebhardt sitting in the dock.

(The witness complied and pointed to the defendant Gebhardt.)

Thank you. Sit down.

I will ask that the record show that the witness properly identified the defendant Gebhardt.

PRESIDING JUDGE BEALS: The record will show that the witness identified the defendant Gebhardt in the dock.

MR. MCHANEY: I have no further questions at this time.

PRESIDING JUDGE BEALS: Will Dr. Alexander again be put on the stand in connection with the examination of this witness?

MR. MCHANEY: Yes, but if there is any cross-examination we can probably finish that before lunch.

PRESIDING JUDGE BEALS: Do any of the defense counsel desire to cross-examine this witness?

DR. SEIDL (counsel for the defendants Gebhardt, Oberheuser, and Fischer): I do not intend to cross-examine this witness, but this does not mean that my clients admit the correctness of all statements made by this witness.

PRESIDING JUDGE BEALS: Does any other of the defense counsel desire to examine the witness?

(No response.)

EXTRACT FROM THE TESTIMONY OF THE PROSECUTION EXPERT WITNESS DR. LEO ALEXANDER*

DIRECT EXAMINATION

MR. MCHANEY: Doctor, can you express any opinion as to the purpose of the type of operation to which she [Karolewska] was subjected, that is the bone removal?

DR. ALEXANDER: I think it must have been one of the experiments

*This testimony is recorded in mimeographed transcript, 20 Dec. 1946, pp. 832–838.

which aimed at the question of regeneration of bone or possible transplantation of bone. Chances are that this tibial graft was either implanted in another person or that grafts had been exchanged. Of course today, 3 years after the experiment, no trace of transplantation is left in this individual. Or if the object was, as alleged in some statements I have seen, that tibial grafts were exchanged between the two legs, one must conclude that the experiment was negative because there is no evidence that a graft took. All we see now are the consequences of removal of a graft, and the graft had included the entire compact part of the bone, otherwise the repair would have been better. If some part of the compact had remained, the periosteum would have probably regenerated and today, 3 years after the operation, no X-ray would have shown the defect. So I feel that rather deep grafts were taken which went down into the spongiosa. Whether anything was replaced that later was destroyed, I do not know, except the patient stated that there was a purulent discharge, indicating that the wound had become infected, and her statement of a subsequent operation, in fact, if I am not mistaken, two subsequent operations, indicates the probability that the grafts did not take and that they were removed after infection had become obvious.

7. SEA-WATER EXPERIMENTS

a. Introduction

The defendants Karl Brandt, Handloser, Rostock, Schroeder, Gebhardt, Rudolf Brandt, Mrugowsky, Poppendick, Sievers, Becker-Freyseng, Schaefer, and Beiglboeck were charged with special responsibility for and participation in criminal conduct involving sea-water experiments (par. 6 (G) of the indictment). In the course of the trial the prosecution withdrew the charge in the case of Mrugowsky. On this charge the defendants Schroeder, Gebhardt, Sievers, Becker-Freyseng, and Beiglboeck were convicted and the defendants Karl Brandt, Handloser, Rostock, Rudolf Brandt, Poppendick, and Schaefer were acquitted.

The prosecution's summation of the evidence on the sea-water experiments is contained in its final brief against the defendant Schroeder. Extracts from that brief are set forth below on pages 419 to 443. A corresponding summation of the evidence by the defense on these experiments has been selected from the final plea for the defendant Schroeder and from the closing brief for the defendant Beiglboeck. It appears below on pages 434 to 446. This argumentation is followed by selections from the evidence on pages 447 to 494.

b. Selection from the Argumentation of the Prosecution

EXTRACTS FROM THE CLOSING BRIEF AGAINST DEFENDANT SCHROEDER

Sea-Water Experiments

* * * * * * *

On 19 May 1944 a conference was held at the German Air Ministry which was attended by Christensen, Schickler, Becker-Freyseng, and Schaefer, among others. This conference was concerned with the problem of the potability of sea water. Two methods of making sea water drinkable were then available to the Medical Service of the Luftwaffe. One, the so-called Schaefer method, had been chemically tested and apparently produced potable sea water. It had the disadvantage, however, of requiring substantial amounts of silver which was available only in limited quantities. The second method, so-called Berkatit, was a substance which changed the taste of sea water but did not remove the salt. It had the advantage of simplicity of manufacture and use.

At the conference on 19 May the defendant Becker-Freyseng reported on certain clinical experiments which had been conducted by von Sirany to test Berkatit. He came to the conclusion that the experiments had not been conducted under sufficiently realistic conditions of sea distress. He reported that the Chief of the Medical Service of the Luftwaffe was—

> "* * * convinced that, if the Berka method is used, damage to health had to be expected not later than 6 days after taking Berkatit, which damage will result in permanent injuries to health and—according to the opinion of Unterarzt Dr. Schaefer—will finally result in death after not later than 12 days. External symptoms are to be expected such as dehydration, diarrhea, convulsions, hallucinations, and finally death." (*NO–117, Pros. Ex. 133.*)

As a result of this conference it was agreed to conduct new experiments. They were to include a series of experiments for a maximum of 6 days during which one group was to be given sea water processed with Berkatit, another group ordinary drinking water, another group no drinking water at all, and the final group such water as was available in the emergency sea distress kits then used. A second series of experiments was decided upon and the report stated:

> "Persons nourished with sea water and Berkatit, and as diet also the emergency sea rations.
>
> "*Duration of experiments: 12 days.*
>
> "Since in the opinion of the chief of the medical service permanent injuries to health, that is, the death of the experimental subjects has to be expected, as experimental subjects such persons

should be used as will be put at the disposal by Reichsfuehrer SS." (*NO–177, Pros. Ex. 133.*)

Thus, with full knowledge that the use of Berkatit for periods of 6 days would result in permanent injuries to the experimental subjects and that death would result no later than the 12th day, plans were made to conduct experiments of 6 and 12 days' duration. *It should be noted that the conference report does not state that the duration was a maximum of 12 days as in the case of the first series of experiment.* The duration was to be 12 days in any event. Since it was known that volunteers could not be expected under such conditions, the conference determined to use inmates of concentration camps which would be put at their disposal by the SS. At a second meeting on 20 May 1944, the report states that "it was decided that Dachau was to be the place where the experiments were (to be) conducted." (*NO–177, Pros. Ex. 133.*) Copies of the report on the conferences were sent, among others, to the Medical Experimentation and Instruction Division of the Air Force, Jueterbog, to which the defendants, Schaefer and Holzloehner, who conducted the freezing experiments with Rascher, were attached; to the German Aviation Research Institute, Berlin-Adlershof, to which the defendants Ruff and Romberg were attached; to the Medical Inspectorate of the Luftwaffe (L. In. 14); and to the Reich Leader SS. The report was signed by Christensen of the Technical Office of the Reich Air Ministry.

On 7 June 1944 the defendant Schroeder wrote to Himmler through Grawitz asking for concentration camp inmates to be used as subjects in the sea-water experiments. This letter reads in part as follows:

"Earlier already you made it possible for the Luftwaffe to settle urgent medical matters through experiments on human beings. *Today again* I stand before a decision which, after numerous experiments on animals as well as human experiments on voluntary experimental subjects, demands a final solution. The Luftwaffe has simultaneously developed two methods for making sea water potable. The one method, developed by a medical officer, removes the salt from the sea water and transforms it into real drinking water; the second method, suggested by an engineer, leaves the salt content unchanged, and only removes the unpleasant taste from the sea water. The latter method, in contrast to the first, requires no critical raw material. From the medical point of view this method must be viewed critically, as the administration of concentrated salt solutions can produce severe symptoms of poisoning.

"*As the experiments on human beings could thus far only be carried out for a period of 4 days, and as practical demands require*

a remedy for those who are in distress at sea up to 12 days, appropriate experiments are necessary.

"Required are 40 healthy test subjects, who must be available for 4 whole weeks. *As it is known from previous experiments that necessary laboratories exist in the concentration camp Dachau, this camp would be very suitable.*" [Emphasis supplied.] (*NO–185, Pros. Ex. 134.*)

Schroeder concluded his letter by stating that the experiments would be directed by the defendant Beiglboeck.

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That these experiments were carried out on nonvoluntary subjects is also proved by Grawitz' letter to Himmler on 28 June 1944. (*NO–179, Pros. Ex. 135.*) In this letter Grawitz reports the opinions of Gebhardt, Gluecks, and Nebe, as well as his own, on the proposed experiments. Gluecks stated that he had no "objections whatsoever to the experiments requested by the Chief of the Medical Service of the Luftwaffe to be conducted at the Rascher experimental station in the Dachau concentration camp. *If possible, Jews or prisoners held in quarantine are to be used.*" It is impossible to imagine a Jew being asked to volunteer for anything in the Third Reich when they were being slaughtered by the millions in the concentration camps. Nebe stated: "I proposed taking for this purpose the asocial gypsy half-breeds. There are people among them, who, although healthy, are out of the question as regards labor commitment. Regarding these gypsies, I shall shortly make a special proposal to the Reich Leader, but I think it right to select from among these people the necessary number of test subjects. Should the Reich Leader agree to this, *I shall list by name the persons to be used.*" It is a little difficult to imagine how Nebe, chief of the Reich Criminal Police, could "list by name" gypsy volunteers for these experiments. Grawitz raised the objection to the use of gypsies on the ground that they were "of somewhat different racial composition" and he therefore wanted experimental subjects racially comparable to European peoples. Himmler decided that gypsies plus three others for control should be used. (*NO–183, Pros. Ex. 136.*)

Schroeder testified that he tried to arrange for carrying out the sea-water experiments at the Luftwaffe hospital in Brunswick. He remembered very specifically, according to his testimony, that he had contacted the commander of that hospital on 1 June 1944. He stated that he also attempted to obtain students as experimental subjects from the Luftwaffe Medical Academy in the latter part of May 1944. Both of these attempts to obtain volunteers allegedly failed because of the lack of clinical facilities and the calling up of students to active service. Schroeder testified that he went to the SS only after

he had exhausted all other possibilities. He would have the Tribunal believe that there was no place to find 40 volunteers and the necessary clinical facilities, although von Sirany had conducted such experiments in Vienna on Wehrmacht soldiers, but of course *for only 4 days.* (*Tr. pp. 3657–9.*)

In connection with this testimony of Schroeder's, it should be noted that the records of the conference on 19 and 20 May 1944 were immediately sent to the SS. The decision to use concentration camp inmates did not await any efforts to find volunteers but was made at the conference of 19 May. It was known that because of the very nature of the experiments which were planned volunteers could not be obtained. Contrariwise, it is impossible to believe that the commanding officer of the whole of the Medical Service of the Luftwaffe was unable to obtain 40 volunteers for the experiments which he claims were so innocuous. There were no regulations which forbade experiments on members of the Wehrmacht. (*Tr. p. 3660.*) The defense witness Haagen, in connection with his proposed epidemic jaundice experiments on human beings, as set forth in his letter of 27 June 1944 to Kalk, who was attached to the staff of Schroeder, insisted at great length that he planned to use volunteers from the student companies of the Wehrmacht at Strasbourg, Freiburg, or Heidelberg. (*Tr. p. 9578.*) He was positive that student volunteers would have been made available. He stated that he could have used them during their vacations. (*Tr. p. 9579.*) Kalk was also sure that this could have been done. Haagen emphasized repeatedly that volunteers were available. (*Tr. p. 9580.*) Clinical facilities would have been easily obtained in reserve hospitals. (*Tr. p. 9581.*)

Schroeder testified that he did not know that Berkatit would cause death in not more than 12 days. (*Tr. p. 3666.*) He could not remember whether Schaefer had told him that taking Berkatit for 12 days would cause death. In a pretrial interrogation, he specifically denied that. (*Tr. p. 3668.*) He testified that while both Becker-Freyseng and Schaefer were at the Nuernberg meeting in October 1942 at which the report on the freezing experiments at Dachau was given, neither of them reported to him about it when he proposed going to Dachau to conduct the sea-water experiments. (*Tr. p. 3669.*) Schroeder denied that he had ever seen the report on the meeting of 19 and 20 May 1944 (*NO–177, Pros. Ex. 133*) on the sea-water experiments. (*Tr. p. 3662.*) Although a copy of this report was sent to Himmler, he would have the Tribunal believe that it was a sheer coincidence that he turned to Himmler for experimental subjects without having seen the report. (*Tr. p. 3669.*) He testified that he told Grawitz in a meeting with him that he wanted the experiments carried out on dishonorably discharged soldiers. (*Tr. p. 3670.*)

Grawitz allegedly said that he would respect this wish. Schroeder stated that he made it clear to Grawitz that the subjects had to be volunteers, with a little food as a reward. (*Tr. p. 3672.*) He further testified that he told Grawitz that the experiments had to be controlled by the Luftwaffe. During a pre-trial interrogation, he swore that he knew nothing about the sea-water experiments, that the SS took it out of his hands and he had no influence. (*Tr. pp. 3610–1.*) Schroeder had no idea, according to his testimony, that foreigners were incarcerated in concentration camps. He said that he knew that gypsies were used as experimental subjects only after the report by Beiglboeck in Berlin in October 1944. (*Tr. p. 3676.*) He testified that he instructed Beiglboeck that Berkatit was to be used only until the subjects said they could not tolerate any more. (*Tr. p. 3677.*) He admitted having heard the report by Beiglboeck on the experiments, together with Becker-Freyseng and Schaefer, among others, but that he did not hear the complete report as he had to leave the meeting early. (*Tr. pp. 3679–80.*)

The charts kept by the defendant Beiglboeck on each of the experimental subjects—which the defense was finally forced into submitting in evidence, after attempting to use them through the defense "expert" Vollhardt without offering the documents themselves—give some of the details as to the experiments, although under the circumstances their reliability is doubtful. (*Tr. p. 9381.*) Certain alterations in these records which will be discussed at a later point, indicate that they are not entitled to great weight. The experiments began in August 1944 and continued until the middle of September. Forty-four experimental subjects were used. Subjects one to six were deprived of all food and water for periods from 5½ to 7½ days. The duration of the experiments given herein is based upon the starting date of the morning of 22 August, as contended by the defense, although there is some evidence indicating that the starting date was 21 August. If the experiment was interrupted in the forenoon, no additional day or part thereof is counted. If it was interrupted between noon and 1700 hours, one-half day is added, while if it was interrupted after 1700 hours, a full day is added. Subjects 7 through 10 were given 1,000 cc. of Schaefer water for 12, 13, and 12 days, respectively, and hungered for 7, 8, and 9 days, respectively. Subject No. 9 was not used for reasons of health. This was the defense witness Mettbach. Subjects 11 through 18 were given 500 cc. of sea water plus the emergency sea ration which contained approximately a total of 2,400 calories. These experiments lasted from 5 to 10 days. They hungered up to 6½ days. Several of these subjects, for example, 11, 13, 17, and 18 were subjected to two separate experiments of 8 and 6 days, 6 and 5 days, 7½ and 5 days, and 10 and 4 days,

respectively. Subjects 19 through 25 were given 500 cc. of Berkatit plus the emergency sea ration. The duration of the experiments lasted from 5 to 9½ days with periods of hunger up to 6½ days. Subjects 19 and 20 underwent two separate experiments of 7 and 5 days each. Subjects 26 through 30 were given 1,000 cc. of Berkatit plus the emergency sea ration. Duration of the experiments was from 5 to 9½ days with periods of hunger up to 6½ days. Subject 29 underwent two experiments of 8 and 5 days. Subjects 31 and 32 were given 1,000 cc. of sea water for 8 and 6 days, respectively. Subject 31 was subjected to an additional experiment of 5 days. Subject 33 was given 500 cc. of Berkatit for 6 days; subject 34, 1,000 cc. of Schaefer for 12 days, subjects 35 through 37, 39, 41, and 42 were given 500 cc. of sea water for periods ranging from 4 to 6 days; subjects 38, 40, and 43 were given 1,000 cc. of sea water for 6, 5, and 6 days; and subject 44 was given Schaefer water for 12 days.

The clinical charts on the experiments also supply us with the ages of the experimental subjects. Subjects 17, 19, 20, 35, 37, 40, and 43 were all under the age of 21. Subject 40 was 16 years old; subjects 17, 19, and 37 were 17 years old; subject 35 was 18 years old; subject 43 was 19 years old; and subject 20 was 20 years old. Needless to say, no effort was made to obtain the consent of the parents or guardians of these minors.

The defendant Beiglboeck testified that he reported to Berlin at the end of June 1944 where he was told by Becker-Freyseng that he was to carry out the sea-water experiments in Dachau. He also saw Schroeder previously in connection with the experiments. He said he attempted to withdraw because he had a horror of working in a concentration camp. He did not refuse to perform the experiments because he was afraid of being called to account for failure to obey orders. (*Tr. pp. 8828–9.*) Becker-Freyseng told him that the purpose of the experiments was, first, to find out if Berkatit was useful; second, to test the Schaefer method; and third, to see whether it would be better to go completely without sea water or to drink small quantities of it. (*Tr. p. 8832.*) He said he was told by the officials in Dachau that the gypsies who were to be used in the experiments were held as "asocial" persons. Beiglboeck apparently considers himself an expert on asocials. He testified that it was his understanding that a whole family could be classified asocial, although this "does not exclude the possibility that, in this family, there may be a large number of persons who did not commit any crime." (*Tr. p. 8848.*)

He testified that he called the experimental subjects together and told them what the experiment was about and asked them if they wanted to participate. (*Tr. p. 8849.*) He did not tell them how

long the experiment would last. He did not tell them that they could withdraw at any time. He testified that he *had to require* that they thirst for a certain period. The decision as to their being relieved from the experiment lay with him. (*Tr. p. 8850.*) During the course of the experiments he testified that the subjects revolted on one occasion because they did not get the food they had been promised. (*Tr. p. 8863.*) They did not get food for several days because of a delay in delivery. (*Tr. p. 8868.*) The subjects were locked in a room during the experiments. Beiglboeck testified that:

> "They should have been locked in a lot better than they were, because then they would have had no opportunity at all to get fresh water on the side." (*Tr. p. 8864.*)

He stated that the danger point would be reached in about seven days drinking 500 cc. of sea water, while in cases of 1,000 cc. of sea water, it would be 4½ days. (*Tr. pp. 8876–7.*) Compare the much longer duration of the experiments as set out above.

It was readily apparent to the prosecution after an inspection of the clinical charts kept during the course of the experiments that a number of alterations had been made in them. These records were in the exclusive possession of defense counsel prior to the testimony of Vollhardt, whose expert opinion was based in part upon such records. In a large number of instances the names of the experimental subjects have been erased from the charts, obviously in an effort to make it impossible to locate such persons for the purpose of giving testimony. An examination of the charts further reveals that the final weights of the experimental subjects were written on the charts in a different shade of ink from the remainder of the records. In some cases these weights were written over the original pencil notations; for example, on chart C–2 the final weight of 62 kilograms in pencil was written over in ink to read 64½ kilograms. Beiglboeck admitted that the red arrows purporting to indicate the start of the experiments, usually appearing under the date August 22, were made by him in 1945, long after the experiment had been completed. (*Tr. p. 8909.*) In charts 1 to 32 a red mark under the date August 21 appears, which would indicate that the experiments very probably began on that date. Certain notes in German shorthand appear on the back of chart C–23. Beiglboeck admitted that he wrote these notes himself. (*Tr. p. 8970.*) Beiglboeck testified that:

> "We [Beiglboeck and his defense counsel] were in agreement at all times that the charts and curves should be submitted in the same way as we received them here." (*Tr. p. 8921.*)

He repeatedly stated that he did not make any erasures on the charts in Nuernberg. (*Tr. pp. 8922, 8973, 8975–6.*) When the proof left him no alternative, Beiglboeck finally admitted having made changes

and erasures in the notes on the back of chart C–23 in Nuernberg. (*Tr. p. 8978.*) These notes give a clinical report on one of the experimental subjects who was critically ill. The following is a restoration of the original stenographic notes insofar as they could be translated:

"The thirst assumes forms difficult to endure. The patient lies there quite motionless with half-closed eyes. He takes no notice of his surroundings. He asks for water only when he awakes from his semiconscious condition (half a line erased).

"The appearance is very bad—looks doomed. The general condition gives cause for alarm.

"Respiration more shallow, labored, moderately frequent.

"Respirations 25 per minute.

"The eyes are deeply hallowed, the turgor of the skin greatly reduced.

"Skin dry, tongue completely dry, whitish coating in the middle fairly loose.

"The mucous membranes of the mouth and the lips dry, latter covered with crusts. Lungs show slight very dry bronchitis lower border VI–XII, sharpened vesicular respiration.

"Heartbeats very low hardly audible. Filling of the pulse weaker. Increased thickness of walls of blood vessels. Frequency 72, liver, 2½–3 fingers below sternal margin, rather soft, moderately sensitive to pressure; spleen on percussion slightly enlarged.

"Musculature hypotonic. Joints over-extendable. Calves slightly sensitive to pressure. Indications of transverse welt formation, marked longitudinal welt formation. Romberg plus plus. Reflexes plus plus. Abdominal reflexes plus plus. Babinski negative. Eife phenomenon. Oppenheim negative. Rossolimo negative. Tonus of the bulb of the eye bad. Bulbus reflex positive. (Interruption.)"

Beiglboeck had substituted the word "somnolent" for the word "semiconscious" in the last line of the first paragraph. In this same paragraph half a line was completely erased and could not be translated. Beiglboeck purported not to remember what it said, an obvious falsehood since it was erased out of fear of the truth. In the last sentence of the second paragraph, Beiglboeck altered the notes to read "The general condition gives no cause for alarm." In the first line of the eighth paragraph, Beiglboeck substituted the word "poorly" for "hardly." The notation "Romberg plus plus" means that the subject has an "uncertain" ability to stand. (*Tr. p. 8982.*) He said that these notes refer to subject number 30 rather than subject 23. (*Tr. p. 8984.*)

Beiglboeck testified that he made no further changes, erasures, or

alterations in Nuernberg. (*Tr. p. 8992.*) That Beiglboeck's testimony as a whole is completely unreliable is evidenced by the fact that he also made erasures in the notes on the back of chart A–29. These notes, insofar as they can be translated, read as follows:

"The thirst again becomes very severe. Patient lies down on his back and rolls about. Also gets * * * a typical stereotyped organic rigid seizure with severe tetanic symptoms such as from his * * *, symptoms * * *. In view of the fact that in the last two days he has been drinking a great deal of water * * * quarter plus half liter, he is being taken out of the experiment.

"3/9 Again taken into the experiment.

"5/9 Again complains about very severe thirst.

"6/9 Feeling of thirst very severe, tongue dry and coated. Fetid smell from the mouth. Skin dry and hot, liver significantly enlarged, reflexes very lively, blood vessels show thickening of walls, musculature over-excitable.

"7/9 Psychic state has changed. Somnolence. Tongue dry, musculature feels stiffened. Considerable weakness of musculature with atoxic manifestation. Romberg positive. Blood vessels still * * *, pulse poorly filled, marked bradycardia, respiration accelerated. General condition [the next word erased and not legible], liver greatly enlarged."

In the case of subject 25, Beiglboeck testified that this man was X-rayed several times and apparently had acute bronchitis. His fever went up to 39.8 Centigrade. (*Tr. p. 8998.*) He complained of a stomach ailment before the experiment began. (*Tr. p. 9000.*) He was still sick when Beiglboeck left Dachau on 15 September. (*Tr. p. 9002.*) Subject 39 was a man 49 years old. He was given 500 cc. of Berkatit for a period of four days, namely, from 1 September to 4 September, when the experiment was interrupted at 1930 hours. Beiglboeck used the truth with characteristic economy when he testified that the man was undergoing the experiment only three days. (*Tr. p. 9010.*) He admitted having performed numerous lumbar and liver punctures on the subjects. (*Tr. p. 8933.*)

A number of experimental subjects were able to gain access to fresh water in spite of the efforts of Beiglboeck to prevent them. Beiglboeck and his defense counsel assumed the anomalous position that this somehow mitigates his guilt. It is difficult to understand how this self-help on the part of the subjects, which undoubtedly saved the lives of the majority of them, could be raised as a mitigating factor when Beiglboeck did everything in his power to prevent that. As a matter of fact he did not even know that the experimental subjects in the first group, that is to say from 1 to 32, had been able to get at fresh water. He testified that:

"I should like to say that in the second group, when I knew their devices from my experience with the first group, I knew what to do and broke off the experiments. If I had wanted to continue the experiments, I would have done it in the second group too. This I did in the first group *only because at first I did not realize the significance of their failure to lose weight.*" [Emphasis supplied.] (*Tr. p. 9022.*)

Thus Beiglboeck says, in effect, that although he did not know that the experimental subjects gained access to fresh water, and although he continued the experiments far beyond what he himself knew to be the danger point, nonetheless he is to be excused because some of the experimental subjects drank fresh water secretly in spite of his efforts to prevent it.

The expert witness, Dr. Ivy, testified for the prosecution concerning sea-water experiments. He, himself, participated in an experiment of three days during which he consumed 2,400 cc. of sea water with a caloric intake of 108 per day in the form of candy. He suffered marked dehydration and was at the point of developing hallucinations. A second volunteer in these experiments took 2,000 cc. in a little over one day and developed vomiting and diarrhea to such an extent that the experiment had to be stopped. (*Tr. p. 9038–9.*) Compare the amounts of sea water taken by Beiglboeck's subjects. For scientific data concerning the effect of sea water on the human body, see Transcript pages 9039–41. Dr. Ivy pointed out certain basic inconsistencies in the testimony of the defense expert witness, Vollhardt. (*Tr. pp. 9041–43.*) Dr. Ivy testified that it was entirely unnecessary to perform these experiments for the purpose of establishing the potability of sea water processed by the Berka method. This could have been determined chemically in a matter of one-half hour. (*Tr. pp. 9043–4.*) He stated that if 1,000 cc. of sea water or Berkatit were taken per day, it would cause death in less than 12 days. Death would occur between the 8th and the 14th day if 500 cc. were consumed per day under ideal conditions. (*Tr. p. 9045.*) The statement in the report of the conferences on 19 and 20 May 1944 that if Berka water was used, damage to health was to be expected not later than six days and would lead to death not later than 12 days is essentially correct. (*Tr. p. 9044.*) This document shows that the planned duration of the experiments was 12 days. Dr. Ivy testified that it would be unnecessary to conduct experiments for more than three or four days to show that Berkatit was just as dehydrating as sea water. (*Tr. p. 9046.*) He stated that these experiments make sense only if they were trying to determine the survival time of human beings on 500 cc. and 1,000 cc. of sea water per day. It is clear that the experimental plan anticipated deaths. (*Tr. pp. 9046–7.*)

Dr. Ivy testified that, on the basis of his studies of the charts kept during the course of the experiments, there was an insufficient observation period after the experiments to determine whether there were any delayed damaging effects to the experimental subjects. (*Tr. p. 9049.*) The results of the experiments are not scientifically reliable. (*Tr. p. 9051.*)

Dr. Ivy pointed out that the chart of subject 3 proved that he was too weak to stand and have his blood pressure taken on several occasions. (*Tr. p. 9052.*) This was one of the subjects in the fasting and thirsting group. He was given an injection of coronine on 29 August and strychnine on 30 and 31 August. Both of these drugs are heart stimulants and the clinical picture indicates that this subject was ill or markedly disabled by the experiments. (*Tr. p. 9053.*) Eight to fourteen days is the range of *survival time* of strong men under ideal conditions for thirsting and fasting. (*Tr. p. 9053.*)

As a result of his study of the clinical records, Dr. Ivy testified that subjects 3, 14, 36, 37, 39, 31, 23 (or 30), 25, 28, and 29 were ill during the experiments. Subjects 3, 23, (or 30), and 25 were especially ill and there is a possibility that they were permanently injured or died as a result of the experiments. (*Tr. pp. 9058–9.*)

The subject to whom the notes on the back of chart C–23 applied was very sick and in a coma. (*Tr. p. 9061.*) The changes made in the stenographic notes by the defendant Beiglboeck make the subject appear to be in a better condition than he actually was. (*Tr. pp. 9062–3.*) The bulbous reflex referred to in these notes means the pressing of the eyeball to determine the degree of coma. "Tonus of ball of eyes is bad" indicates the blood pressure was low and the circulation was quite poor. This is a bad prognostic sign and might indicate impending death. (*Tr. p. 9064.*) These notes indicate that the subject was in a dangerous condition and required immediate remedial therapy. The follow-up observation for subject 23 was four days, while for subject 30 it was five days. This was entirely insufficient. This subject could have died if not properly cared for. (*Tr. pp. 9065–6.*)

Dr. Ivy testified that of the 44 subjects, 13 were too weak to stand on one or more occasions, had fever, required cardiac stimulants, or were unconscious—namely, subjects, 3, 4, 14, 21, 23, 25, 28, 29, 32, 36, 37, 39 and 40. (*Tr. pp. 9067–8.*) The statement of the affiant Bauer to the effect that he observed symptoms of heart weakness in the experimental subjects as a result of certain electrocardiograms he took was corroborated by Ivy. (*Tr. p. 9069.*)

In Dr. Ivy's opinion, an experimental subject who agrees to undergo an experiment is no longer a volunteer if, during the course of the experiment, he is forced to continue after having expressed a desire to be relieved. (*Tr. pp. 9076–7.*)

The testimony of the defense expert Vollhardt is entirely unreliable. Although Vollhardt had nothing whatever to do with these experiments in Dachau, he repeatedly testified in a highly partial manner concerning matters about which he could not possibly have had any knowledge. For example, he insisted that the subjects in Dachau were volunteers. He testified that Beiglboeck eliminated three subjects before the experiments began because of their physical condition, and that three other persons immediately volunteered. (*Tr. pp. 8457–8.*) Even Beiglboeck made no such contention. He said that he considered it "quite out of the question that the experimental subjects felt it necessary to drink water out of mops, because there were air raid buckets and if they felt they needed a drink, they could have drunk out of them." (*Tr. p. 8467.*) It is passing strange that Vollhardt could have such information when he was never in Dachau. He believed it quite impossible that any of the experimental subjects had cramps, although subject 29 is proved to have had cramps and organic seizures by the notes quoted above. Although Vollhardt admitted that the clinical data showed that a number of the experimental subjects had secretly obtained fresh water, and although Beiglboeck admitted that some of the subjects threw their urine away (*Tr. p. 8865*), Vollhardt was quite sure that the experimental subjects were all volunteers.

Vollhardt made no study of the clinical notes himself but turned them over to a 25-year-old assistant to digest for him. (*Tr. p. 8432.*) He admitted that he relied on descriptions of the experiments made by Becker-Freyseng and Beiglboeck since the trial began. (*Tr. p. 8438.*) Vollhardt had had no previous experience with sea-water problems, nor had his assistant. (*Tr. p. 8451.*) Vollhardt testified that he conducted a volunteer experiment on five of his doctor assistants after he had been approached by defense counsel. His subjects drank 500 cc. of simulated sea water per day and received 1,600 calories per day. (*Tr. pp. 8440–2.*) Four of the subjects continued the experiment for five days and one for six days. The latter subject drank an extra 500 cc. on the last day. The purpose of these experiments was to ascertain how much a person suffers when undergoing a sea-water experiment. (*Tr. p. 8443.*) Vollhardt's subjects continued their work about the clinic, although they ate and slept in the same room. He does not know whether they went to the local cinema or left the clinic for other purposes during the course of the experiments. (*Tr. p. 8445.*) Four of the subjects quit on the fifth day because of an engagement with a young lady. (*Tr. p. 8450.*) He testified that his subjects had no severe thirst on the first two days, it became unpleasant on the third, reduced thirst on the fourth, and very strong thirst on the fifth day; the subject who went six days re-

ported that it made very little difference. All continued their work during the experiment. (*Tr. p. 8453.*) It is obvious that this experiment in no way compared to those conducted in Dachau. While some of the experimental subjects in Dachau were too weak on many occasions to have their blood pressure taken, Vollhardt's subjects were able to continue their work.

While Vollhardt's subjects were trained doctors who participated in the experiment because of interest, who were permitted to withdraw from the experiment at any time, who were permitted to control their own activities during the experiment, none of these important factors were present in the Dachau experiments. (*Tr. p. 8479.*) The wretched gypsies were not permitted to withdraw when they felt like it. They did not know how long the experiments were to last, they had no freedom of activity, they had no interest in the experiment. Vollhardt's regard for these gypsies is apparent from his statement that "* * * people like that will of course find a way" to cheat. (*Tr. p. 8468.*) That Vollhardt knew nothing of the experiments he purported to testify about is apparent from his testimony regarding their duration. For example, he stated that in the Berkatit group of 500 cc., the experiments were discontinued after six days. (*Tr. p. 8462.*) *The clinical charts which Vollhardt had in his possession, and upon which his testimony purported to be based, show that the duration of the experiments in this group ran as high as 9½ days, and in all but two cases exceeded six days. He testified that the group on sea water was also discontinued after six days while the clinical charts show some of them to have run as long as ten days. In the fasting and thirsting group he testified that they were discontinued after four to five days, while the chart shows that they lasted from 5½ to 7½ days.* (*Tr. pp. 8462–3.*) No, Vollhardt's testimony would indeed have been an unreliable substitute for the charts.

The testimony of the prosecution witnesses proves that the sea-water experiments resulted in murder and tortures. The Austrian witness Vorlicek, who was tried for "preparation of high treason" in 1939 and sentenced to four years in a penitentiary, was transferred to Dachau in March 1944 and acted as an assistant nurse in the experimental station during the course of the sea-water experiments. (*Tr. pp. 9383–5.*) One of the inmate guards who fell asleep was transferred to a penal company. (*Tr. p. 9386.*) At least one of the subjects suffered a violent attack of cramps. (*Tr. p. 9386.*) On one occasion Vorlicek spilled some fresh water on the floor and forgot the rag which he used to mop it up. The experimental subjects seized the dirty rag and sucked the water out of it. Beiglboeck threatened to put him in the experiments if it ever happened again. (*Tr. p. 9387.*) The ex-

perimental subjects were not volunteers. Vorlicek talked to some of the Czech subjects who told him they had been asked in another camp to volunteer for a good outside assignment and only when they got to Dachau did they find out that they were to undergo the experiments. (*Tr. pp. 9388, 9392.*) He testified that the subjects were of Czech, Polish, Hungarian, Austrian, and German nationalities. (*Tr. p. 9388.*) Some of the subjects were quite ill and he was under the impression that they would not live much longer. About three months after the experiments he met Franz, one of the subjects, and he told him that one of the victims of the experiments had already died. (*Tr. p. 9390.*)

The witness Laubinger, who was subject number 7, testified that he was arrested by the Gestapo in March 1943 because he was a gypsy. He was sent to Auschwitz in the spring of 1943 without having been tried for any crime. (*Tr. p. 10199.*) He was later transferred to Buchenwald for a few weeks and while there, together with other inmates, was asked to volunteer for a cleaning-up work detail in Dachau. The inmates were under the impression that conditions were better in Dachau, so they agreed to go. Upon their arrival at Dachau they were given a physical examination and X-rayed and then taken to the experimental station. (*Tr. p. 10200.*) Beiglboeck told them that they were to participate in the sea-water experiment and that was the first they knew of it. (*Tr. p. 10201.*) Laubinger identified Beiglboeck in the dock. (*Tr. p. 10202.*) He told Beiglboeck that he had had two stomach operations, but Beiglboeck did not permit him to withdraw. Beiglboeck did not ask whether the subjects wished to volunteer, and they did not volunteer. (*Tr. p. 10203.*) Laubinger, who was in the Schaefer group, was given Schaefer water for 12 days and fasted for at least nine days. He got so weak he could hardly stand up. The experimental subjects received special food for only one day after the experiment. Beiglboeck had promised them extra rations and an easy work detail but these promises were not kept. (*Tr. p. 10205.*) One of the subjects tried to persuade the others to refuse to drink the sea water. Beiglboeck threatened to have him hanged for sabotage. The subject later vomited after drinking sea water whereupon Beiglboeck had the water administered through a stomach tube. (*Tr. p. 10207.*) Another subject was tied to his bed and adhesive tape was plastered over his mouth, because he had obtained some fresh water and bread. Most of the subjects were Czech, Polish, and Russian nationalities, with approximately eight Germans. (*Tr. p. 10208.*) A number of subjects suffered attacks of delirium and two were transferred to the hospital. Laubinger did not see them again. (*Tr. p. 10209.*)

The witness Hoellenrainer corroborated the testimony of Laubinger on all important points. He testified that the experimental subjects did not volunteer (*Tr. p. 10509*) and that the majority of them were non-German nationals. (*Tr. p. 10513.*) Hoellenrainer testified further that Beiglboeck showed no concern for the experimental subjects, but, on the contrary, threatened to shoot them when they became excited. (It hardly seems appropriate to wear a gun when experimenting on volunteers.) He had no pity for them when they became delirious from thirst and hunger. (*Tr. p. 10510.*) The witness Hoellenrainer unfortunately assaulted Beiglboeck in open Court. This impulsive act of the witness, however, speaks more forcibly than volumes of testimony as to the inhuman treatment of the experimental subjects and the suffering which was inflicted on them as a result of these experiments. We may rest assured that Hoellenrainer was no volunteer. When explaining his behavior to the Tribunal, Hoellenrainer characterized Beiglboeck a "murderer". (*Tr. pp. 10233–4.*)

The witness Tschofenig was committed to Dachau in November 1940 where he remained until April 1945. He was a political prisoner. (*Tr. p. 9331.*) He is at present a member of the Carinthian Land Diet in Austria. (*Tr. p. 9332.*) From the summer of 1942 until the end, he was in charge of the X-ray station in Dachau. (*Tr. p. 9334.*) He examined the transport of gypsies in the summer of 1944 before the experiments began and excluded a number of them as being unfit. (*Tr. pp. 9334–5.*) He saw Beiglboeck several times in the camp and in the X-ray station. (*Tr. p. 9335.*) During the experiments a number of those who got sick were brought to the X-ray station for examination. Their physical condition had deteriorated considerably as a result of the experiments. He heard that one of the subjects had a maniac attack. (*Tr. p. 9336.*) At the conclusion of the experiments, three of the subjects were brought to the station for internal diseases. One was on a stretcher and unable to walk. All of them were X-rayed by Tschofenig. (*Tr. p. 9338.*) It was customary to send the results of the X-ray examinations to the hospital ward where the inmates were kept. Tschofenig received an official order from the station for internal diseases that it was not necessary to report on the stretcher case as he had died two days after his transfer. The station physician reported that the death resulted from the sea-water experiments. Tschofenig examined the death records himself. (*Tr. p. 9339.*)

Even Dr. Steinbauer, defense counsel for Beiglboeck, has apparently convinced himself that these experiments involved torture. He said, in explaining his conduct in withholding part of a document the Tribunal had ordered to be produced, that: "I do not want to say anything about the experimental subjects, who suffered terribly." (*Tr. p. 9378.*)

c. Selections from the Argumentation of the Defense

*EXTRACT FROM THE FINAL PLEA FOR DEFENDANT SCHROEDER**

* * * * * * *

I now come to the count of the indictment "Participation of the defendant Professor Dr. Schroeder in the sea-water experiments which were carried out in the Dachau concentration camp."

In the case of these experiments, Professor Schroeder's participation has been established, and he has accepted the responsibility as far as the preparation and the planning of these experiments are concerned. Professor Schroeder has mainly been accused by the prosecution of having permitted these experiments to be carried out in a concentration camp. The prosecution in its case against Professor Schroeder further stated that these experiments were not necessary at all, and it drew the conclusion that the experiments had only been ordered in order to torture people and in order to subject them to unnecessary cruelties; it also stated that it was clear that in no case had the experimental subjects been volunteers.

Therefore it is the task of the defense to show in the following paragraphs why from the point of view of Profesor Schroeder, as Chief of the Medical Inspectorate of the Luftwaffe, these experiments had to be considered necessary, and just what reasons motivated him to give his approval for the carrying out of the experiments in a concentration camp.

The first question therefore is—why and from what considerations were there experiments ordered at all? It must be stated in advance here, that as far as Chief of the Medical Inspectorate Professor Schroeder was concerned, he did not have to examine the question whether one or the other method for making sea water drinkable was more suitable; the problem for him existed in its entirety and it could not be divided. It was to rescue shipwrecked persons from death from lack of water and find the best method of protection against this danger. This problem had already been handled by various interested agencies for quite some time, and various individual questions for the solution of this problem had arisen. No method for making sea water drinkable had been found and it was not clear what procedure should be advocated.

In the course of the year 1943 two methods for making sea water drinkable were offered almost simultaneously. One of them, the so-called Wofatit method, had been developed by Dr. Schaefer in collab-

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*Final plea is recorded in mimeographed transcript, 16 July 1947, pp. 10942–10971.

oration with I. G. Farben. Another, the Berkatit method, represented the invention of Stabsingenieur Berka.

It was quite clearly recognized that Schaefer's Wofatit represented the ideal solution, because this method removed all the salt from the sea water and changed it into drinking water, while the Berka method let the salt remain in the sea water and only improved the taste of the sea water through the addition of various sugar and vitamin drugs. We agree with the prosecution and the expert Professor Dr. Ivy when they state that a chemist in the course of one afternoon could have decided by means of a short experiment whether Wofatit or Berkatit was better. The participating agencies of the Medical Service of the Luftwaffe, Professor Schroeder and Dr. Becker-Freyseng, realized that quite clearly. From the chemical point of view this problem could also have been solved in a simple manner.

The difficulty which existed for Professor Schroeder with regard to this problem, however, lay in another field; this was the shortage of raw materials prevailing at the time, which had arisen in Germany because of the war. This circumstance made it possible for the Technical Office of the Luftwaffe to oppose the introduction of the Wofatit and to consider the Berkatit method, because the raw materials for the latter method could be procured without any difficulty and production could be started right away, since production facilities for the appropriate amounts were already in existence. It was different in the case of Wofatit. Considerable amounts of silver were required for its production, which could not be set aside for the production of Wofatit without damaging other production branches which also needed this metal. The Technical Office of the Luftwaffe, therefore, had already decided in favor of the introduction of Berkatit on 1 July 1944. Professor Schroeder, in his capacity as Chief of the Medical Inspectorate, however, could not have assumed the responsibility for having the units which were entrusted to his professional medical care equipped with the Berka method, because the danger existed that shipwrecked aviators, deceived by the improvement in the taste of sea water, would drink it in larger amounts and thus increase the danger of their dying of thirst. The question also had to be clarified whether the shipwrecked crew of an airplane completely adrift at sea should go without any food or water whatsoever or whether they should consume a certain amount of sea water rather than no water at all. This last question could only be clarified by carrying out an experiment on human beings. An experiment on animals would not suffice in this respect, because the distribution of water in the body of animals differs from that in a human being. By proving its medical objections, the Medical Inspectorate would also have been able to make its point of view heard by the Technical Office, if

the medical expert, Professor Dr. Eppinger, one of the best known specialists for internal diseases not only in Germany, but in Europe, had not sided with the Technical Office. Professor Eppinger, in the conference at the Technical Office on 25 May 1944, expressly voiced the opinion that the Berka method was suitable, because for a certain time the human kidney could concentrate salt up to 3 percent, and because the vitamins which had been added to the Berka method would be suitable for speeding up the excretion of the salt from the human organism. This opinion was also shared at the same conference by the pharmacologist Professor Heubner, who is still one of the leading specialists in the field today.

Professor Schroeder would not have been able to turn down both methods. He would then have been reproached with the fact that he had not done everything within his power in order to make the position of shipwrecked German soldiers more bearable and to save them from dying of lack of water. It, therefore, becomes evident that these considerations on the part of Schroeder give us proof of his great feeling of responsibility; it was not easy for him to give his approval for the carrying out of such experiments.

Further developments also show clearly that Schroeder, in spite of the fact that he was extremely busy with official matters, devoted the greatest care and conscientiousness to this matter. He did not just decide to select Dachau as the place where the experiments were to be carried out. Originally he did not even harbor such a thought, but he intended to have the experiments carried out as a troop experiment in institutes which were owned by the Luftwaffe. He was primarily considering the Luftwaffe hospital at Brunswick for this purpose. On 1 July 1944 he turned to the chief medical officer of this hospital, who was competent in the matter, who, however, disapproved of it. This becomes evident from the certificate of Dr. Harriehausen, who was a Generalarzt at the time. Now Professor Schroeder began to consider the Military Medical Academy of the Luftwaffe in Berlin, where he intended to use the young cadets in this academy as experimental subjects. An inquiry which he made there was also unsuccessful. The reason why his requests were turned down in each case was that just at this particular time the OKW had issued a strict order to the effect that all convalescents were to be returned immediately from the hospitals to their units, and that the cadets of the academy were to be given a combat assignment. For the same reason, the suggestion of Professor Beiglboeck to carry out the experiments at the Tarvis Field Hospital also remained unsuccessful.

The further possibility of perhaps using German civilians for the experiments was completely out of question because at this time it was not possible to find young men in the age groups necessary in this case

among the German civilian population, because all of them had either been conscripted for military service or for labor service. Professor Schroeder, therefore, had no choice but to follow the suggestion of considering Dachau concentration camp for his experimental station.

Professor Schroeder was not informed at all about conditions in a concentration camp. He thought the circumstances in such a camp were no different from those prevailing in a military camp, and only the names Dachau and Oranienburg were known to him as concentration camps. In this connection, it may be pointed out that the SS surrounded events in the concentration camps with an almost impenetrable veil of secrecy. Schroeder never listened to foreign radio stations. In the circles of his medical officers such events were never discussed. I may point out here that an express opponent of National Socialism, no less than the former Prussian Minister of the Interior, Severing, testified as a witness in the IMT trial that he had had no knowledge of the events in the concentration camps, and he had different sources of information at his disposal from Professor Schroeder. If Professor Schroeder had had any idea of what happened in concentration camps while he was away from Germany, then in view of his ideology as a faithful Christian, he would have refused such contact with concentration camps arising out of ordering these experiments. The decisive point in Schroeder's favor is that the experiments were not to be carried out under the supervision and command of the SS camp leadership but completely separate, under the special leadership of a Luftwaffe medical officer and recognized specialist. As a further consideration, Professor Schroeder had to take into account that a useful result could be achieved in these experiments only if they could be carried out without interruption or hindrance. Because of the then prevalent almost daily air raids over the whole of Germany, no guarantee for an uninterrupted execution of these experiments could be given in any spot in Germany. However, it was known that air raids on concentration camps did not take place. Moreover, the charge cannot be brought against Professor Schroeder that he chose a concentration camp because he then had available defenseless tools who perforce had to subject themselves to the experiments. The very opposite is true. It was clear to Professor Schroeder that if he wanted to be successful he could carry out these experiments only with voluntary experimental subjects, for the director of the experiments was dependent on the willing cooperation of the experimental subjects, since in no other way could usable clinical data be achieved. Every involuntary experimental subject would have had the power to drop out of the experiment prematurely by feigning indisposition or pain, and, in this way, would have caused the director of the experiment to terminate it prematurely.

For the further evaluation of Professor Schroeder's conduct, his

conversation with the Reich Physician SS Grawitz must be considered especially. Professor Schroeder expressed the opinion to Grawitz that he could only work with healthy and voluntary experimental persons, whose age corresponded to that of the pilots under his command, and he made the further condition that the experimental persons should have the same physiological and racial requisites as the members of the German Wehrmacht in question. On direct examination, Professor Schroeder testified under oath that in this connection he talked to Grawitz about dishonorably discharged former members of the German Wehrmacht who, he knew, had been transferred to concentration camps because of the seriousness of their offenses.

Professor Schroeder could not assume, nor was any report on the part of Grawitz or the SS leadership made to him, that the SS leadership did not accept this suggestion and that instead of former members of the German Wehrmacht, gypsies had been decided upon for experimental purposes. Professor Schroeder, from his point of view, could rely on Grawitz to make arrangements according to his suggestions; he had no reason to expect that the SS would decide upon experimental subjects, against his well-founded wish, who, racially and physiologically did not have the prerequisites demanded by Professor Schroeder.

Because of the extremely heavy official duties caused for Professor Schroeder in his capacity as chief medical officer by the imminent collapse of German military resistance, this affair was only a small segment of his official duties and it must be admitted that he could not concern himself further with this affair.

A further consideration which Professor Schroeder had to bear in mind was whether such experiments were dangerous and possibly damaging to the health of the experimental subjects. Professor Schroeder had thoroughly studied this question and contemplated all possible aspects of the problem. Professor Schroeder also knew that sea water is used by doctors for drinking cures and that the criterion of harmfulness depends on the doses. If there was medical supervision then there would be no danger to health. Therefore, the prosecution's charge that he failed to take the possible hazards sufficiently into account is not justified.

Nothing shows the high degree of responsibility which characterized Professor Schroeder more than the instructions which the medical inspector issued to the man carrying out the experiments.

Professor Schroeder was convinced that the experiments held no danger to the experimental subjects and he expressed this opinion to Reich Physician SS Grawitz. Such danger was excluded particularly if and when the quantity of sea water to be taken was regulated in accordance with the best medical experiences, and when it was definitely ordered that the experiments should be stopped at a certain time; and,

furthermore, if the selection of the man in charge of the experiments guaranteed, on the basis of professional and ethical standards, that the experiments would be carried out in a humane manner, taking into account all medical and clinical considerations.

Therefore, it is fully justified if Professor Schroeder claims that he, from his position as a physician and a leading medical officer, considered all possible situations and attempted to avert all possible sources of danger as far as humanly possible. His direction to the man in charge to discontinue the experiments as soon as the experimental subject refused to take in further water, and if dangerous injury to the body were recognizable, must be mentioned in Schroeder's favor. The person carrying out the experiments was furnished with all necessary assistants and a number of special co-workers from medical circles as well as all machinery to carry out his work in an orderly fashion.

The contention that both the planning and preparation of the experiments by Schroeder can stand any examination, that that planning was with full moral responsibility and with a true feeling of duty and humanity was reaffirmed, too, before this Tribunal by Professor Dr. Vollhardt, as well as by the American expert, Professor Ivy. It is simply unthinkable that instructions to one conducting experiments could be more correct from a medical point of view than those which Professor Schroeder worked out.

By this plea and the evidence, all charges against Professor Schroeder in the sea-water complex are refuted.

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EXTRACTS FROM THE CLOSING BRIEF FOR DEFENDANT BEIGLBOECK

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The Persons Subjected to the Experiments

As regards this subject [sea-water experiments] I want to put the defendant's statements first (*Tr. pp. 8703–4*):

"Dr. Steinbauer: Did you have influence on the selection of the experimental subjects?

"Defendant Beiglboeck: No. I was told at the Medical Inspectorate that arrangements had been made with the SS, and the SS in accordance with these arrangements would supply the experimental subjects. I did not have to worry about that.

"Q. Did you have orders to find out where the experimental subjects came from and what the specified circumstances and conditions were?

"A. No. That too was not a decision that I could have made, nor could the Luftwaffe.

"Q. Did you know before that gypsies had been used?

"A. I only found out that gypsies were coming into Dachau from the camp commandant. * * * I, therefore, do not feel that I am responsible either for the selection of the place where the experiments were carried out nor for the selection of those persons who were used."

Defendant Professor Dr. Schroeder states regarding this (*Tr. pp. 3676–7*):

CROSS-EXAMINATION

"MR. MCHANEY: Did you say anything to Beiglboeck about the experimental subjects?

"DEFENDANT SCHROEDER: No. We only spoke about the matter as such. I am not quite sure whether the question 'concentration camp' was already established at that time. Please, why don't you ask Beiglboeck himself? I don't know if it was before or after 1 June.

"Q. You didn't say anything to Beiglboeck about making sure that only German volunteers were used in the experiments?

"A. That was a matter of course. There was no discussion about it. It was no subject of discussion. There wasn't anything to be discussed.

"Q. Well, you didn't tell him that then?

"A. I don't know. I can't tell you that under oath. I know that there were volunteers, and I certainly did not say that they had to be German because I didn't take any other possibility into consideration at all and couldn't have said it. These are all reconstructions which came up later, but at that time weren't subjects of discussion at all."

These were gypsies wearing the black badge of the asocials. The defendant states that the Sturmbannfuehrer in charge of the shipment told him that these persons were all asocials, who were interned on account of punishable offenses and not for social reasons. As we read in Kogon's book "The SS State"* the black badge was in fact the designation of the asocials. We see from Document NO–179, Prosecution Exhibit 135, that SS Gruppenfuehrer Nebe suggested as persons to be used for the experiments asocial persons of mixed gypsy blood in Auschwitz concentration camp, who were in good health but at the same time unsuitable for labor. In the book on gypsies of the Royal Police Directorate Munich 1905, (*Beiglboeck 28*, *Beiglboeck Ex. 11*), we read:

*Eugen Kogon: Der SS Staat; published 1946, Verlag der Frankfurter Hefte, Frankfurt-Main.

"The greatest difficulty arises in securing a census of gypsies. The majority of them make every effort to obscure their identity through false statements or through a pretense of ignorance * * *."

Their asocial character led to a series of police regulations, of which the most important are the following, as far as Germany is concerned:

Decree of 16 May 1938, RMBl.i.V. (*Bulletin of the Reich Ministry of the Interior*) pages 883–4, concerning measures against the gypsy nuisance.

Decree of 8 December 1938, RMBl.i.V., page 2105, concerning measures against the gypsy nuisance.

Decree of 10 November 1939, RMBl.i.V., page 2339, concerning employment records for gypsies.

Decree of 2 September 1939, Reich Law Gazette, I, page 1578. Prohibition of wandering of gypsies in the frontier zone* (*Sec. 4 of the ordinance concerning frontier protection*).

The witness Dorn states (*Tr. p. 8618*):

"As far as I know, the brown sign was done away with in Buchenwald in 1940 and all gypsies arrested for racial reasons were asocial. In other words, from 1940 on, there were no gypsies in the camp who were not designated in the filing system as asocial, as unwilling to work."

The same witness states (*Tr. pp. 8661–2*):

"I can merely say that initially all gypsies were arrested for racial reasons. Later on this was changed. Some of the gypsies who were not declared asocial elements were removed from Dachau to the Labor House in the Rebdorf Bavarian penitentiary."*

The famous Swiss Psychiatrist E. Bleuler, Zuerich, writes in his Textbook on Psychiatry, Berlin, Springer, 1937 on pages 397–400 about:

Constitutional ethnical deviations

"* * * A large number of asocials show what type of character they are while still young. Most of them are backward at school, even if their intelligence is good, because they adjust themselves too little and show too little industry and attention. Extraordinary achievements in any single direction are rare. Many of them are lazy, thieving, lying, cruel to animals and people, exacting, often deliberately and negligently damaging their own and others property, vain, unreliable, and egotistical. They cannot sub-

*Counsel for the defendant Beiglboeck quoted the testimony of the prosecution witnesses Stoehr, Pillwein, and Tschofenig and the testimony of the defense witness Mettbach who stated that approximately 40 to 50 gypsies were used for the sea-water experiments and that they wore either black or green triangles. Black triangles had to be worn by those concentration camp inmates who were considered asocial and green triangles by those who were considered criminal.

mit to authority, run away if they do not like anything; punishments are not respected, altogether neither sugar plums nor the whip have any visible effects. When carrying out mean tricks they develop cunning and energy, soon learn from others what is bad, with difficulty or not at all what is good, have an instinctive inclination for bad company."

I have not made any special reference to asocial character to point out that we must be particularly careful when estimating their trustworthiness, on account of their tendency to mendacity and because of a certain psychotic cupidity concerning claims for compensation. This is not necessary where the judges are so experienced; I am referring to this fact for *legal* reasons. It is well known that there is no legal definition of crimes against humanity. According to legal authors, such crimes can only be committed against persons who are persecuted for political, religious, and racial reasons.

To complete this chapter in its legal aspects, I would also like to mention the racial regulation of the gypsy question as far as it can be seen from German legislation. According to the 12th decree implementing the Reich Citizenship Law, dated 25 April 1943 (*Reich Law Gazette I, p. 268*), gypsies who are not yet German citizens cannot acquire citizenship. Section 4 of this decree reads:

"Jews and gypsies cannot become citizens. They cannot become citizens either subject to revocation, or protected persons * * *."

According to the first decree implementing the Law for the Protection of German Blood and German Honor of 14 November 1935 (*Reich Law Gazette I, p. 1334*), marriage between gypsies and Germans is prohibited. Section 6 of this decree reads:

"A marriage shall furthermore not be contracted if the progeny to be expected from it would endanger the purity of German blood."

In all fairness, however, one must admit in this connection that in the practice of the Third Reich no strict distinction seems to have been made when gypsies were put in a concentration camp, so that we should need the criminal record and family history of each person subjected to the experiments to be able to ascertain accurately the asocial character of each individual. It is a fact that in the gypsy book mentioned by me, 11 names of persons subjected to experiments are to be found, who must no doubt be characterized as asocial.

Origin of the gypsies as to nationality

As I have already mentioned, the gypsies themselves like to leave this point vague. Therefore no point of the evidence contains so many conflicting statements as this particular one. Beiglboeck himself cannot make any definite statements as to this matter, but as he used to speak to all of them, they must all have understood German.

Among the names we also find plenty of Slav names, having a Polish, Ukrainian, or Southern Slav sound. In the old Austrian Monarchy, these people were jumbled together a good deal and in their wanderings they also entered German Reich territory. After the break-up of the Monarchy, some of the so-called Carpatho-Russians became citizens of Hungary or Slovakia. In the eastern provinces of the German Reich, there were many Poles or Germanized persons with Polish names. The mere name, therefore, admits of no conclusion as to nationality. The fact, however, that most of them could make themselves understood in the German language allows the conclusion that none of the persons subjected to experiments were imported from the *Allied* countries.

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The witness Fritz Pillwein states in his affidavit (*Beiglboeck 32*, *Beiglboeck Ex. 21*):

"The experimental subjects in most cases spoke their gypsy dialect. Many of them were obviously of Slav origin. I did not see identification papers, however, as this was quite impossible in a concentration camp and as I did not ask them anything of the kind, I cannot make any exact statement regarding the *nationality* of the individual gypsies. I did not ask them because the gypsies were very primitive people, and some of them did not even know their own birthdays."

The witness Mettbach stated when questioned by Dr. Steinbauer (*Tr. p. 9729*):

"DR. STEINBAUER: What language did you speak among yourselves?

"WITNESS METTBACH: Mostly gypsy language.

"Q. What was the citizenship of the individual experimental subjects?

"A. Mostly they were Germans. There were a lot of Austrians and a lot of them came from East Prussia and Upper Silesia and the Burgenland [Province bordering Austria-Hungary]."

When questioned by counsel for the prosecution the witness Mettbach stated (*Tr. pp. 9737–8*):

"MR. HARDY: Were there any foreign nationals—that is, men other than Germans—used in these experiments?

"WITNESS METTBACH: Austrians and Burgenlaender and some from Upper Silesia and East Prussia.

"Q. No Czechs?

"A. No.

"Q. No Russians?

"A. No.

"Q. No Poles?

"A. A couple of them talked Polish but I think they came from Upper Silesia or East Prussia. That very often happens. Lots of Upper Silesians can talk Polish."

When questioned by counsel for the prosecution the witness Joseph Vorlicek stated (*Tr. p. 9388*):

"MR. HARDY: Do you know the nationality of the various subjects?

"WITNESS VORLICEK: For the most part I do.

"Q. Can you tell the Tribunal the nationality of the various subjects, as near as you can recollect?

"A. There were Czechs, Poles, Hungarians, Austrians, and Germans."

During direct examination the witness Vorlicek stated (*Tr. p. 9388*):

"MR. HARDY: Well, did they ever volunteer for any special detachment or some such thing?

"WITNESS VORLICEK: Well, this is how it happened. Since I know the Slavonic language, and there were some Czechs among them, I spoke to them."

Therefore, the defendant's statement, that the persons concerned were Slovaks from the Bratislava area (Bratislava is the capital of Slovakia) is not without foundation.

The Rations of the Gypsies

The defendant states that the persons subjected to the experiments got the Luftwaffe flight rations before the experiments, and the same rations after the experiments, and that there was a hitch only once due to the bombing of the provisions warehouse. During the experiments, the persons got shipwreck rations. The Englishman, Ladell also says that he gave his soldiers shipwreck rations during the experiments. On this point, see extract from Beiglboeck 20, Beiglboeck Exhibit 8:

" * * * In all the experiments the food given was the 'shipwreck diet'; this comprises 1 ounce each per day of biscuits; sweetened condensed milk; butter, fat, or margarine; and chocolate."

That food was provided is evident from two documents. (*Beiglboeck 26, Beiglboeck Ex. 13; Beiglboeck 27, Beiglboeck Ex. 14.*)

The witness Massion states in his affidavit (*Beiglboeck 31, Beiglboeck Ex. 12*):

"Before beginning the experiment, the experimental subjects were given the same food as that supplied to the flying personnel of the Luftwaffe, that is to say, a very nutritious diet of sardines, butter, cheese, milk, meat, etc. During the experiment, 4 persons assigned to the thirst group received no food whatsoever, the others

received sea-emergency rations, with chocolate, etc. I know that on one occasion difficulties arose in the food supply which possibly were connected with an air raid. I was sent to Frankfurt with the urgent order to obtain sea-emergency rations there."

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The Treatment of Gypsies

Beiglboeck treated the experimental subjects in a humane manner. It is natural that he insisted the strict observance of the whole experiment was not to be a farce. The whole experiment was a constant struggle against the understandable attitude of the experimental subjects who wanted to save themselves by cheating the director of the experiment (by secretly drinking water and pouring away the urine), and by obtaining special favors, in particular cigarettes, which in 1944 were hard to get—and that not only in the concentration camps.

In regard to this point I refer to a document in which Professor Dr. Dennig writes (*Beiglboeck 29*, *Beiglboeck Ex. 15*):

"While the people are able for the first few days successfully to fight their thirst with good grace, their strength of will is insufficient during the later stage; they devise extremely subtle means of obtaining water, e. g., the case of Juergensen."

Witness Ernst Mettbach states in regard to this point when questioned by Dr. Steinbauer (*Tr. p. 9722*):

"Dr. Steinbauer: The professor forbade your bringing them water. Did you nevertheless bring them water? Now, be honest.

"Witness Mettbach: Several times I brought my relative, Mettbach, water to drink.

"Q. Where did you give it to him?

"A. Sometimes I smuggled it in to the experimental station myself. Sometimes I stuck it in through the fly screen on the window which was a little bit loose."

Later we shall speak in detail about the secret drinking of water. At this point I just want to say in general that every drop of water which was consumed in secret not only diminished the scientific value of the experiments, but is also of greatest significance from the point of view of criminal law, because it decreased the feeling of thirst. As I said before, the treatment of the experimental subjects was a humane one. In regard to this point compare the statement of Dr. Lesse (*Beiglboeck 14*, *Beiglboeck Ex. 20*):

"Q. What was his attitude to the prisoners in general?

"A. Very humane and benevolent."

Witness Massion states in his affidavit (*Beiglboeck 31*, *Beiglboeck Ex. 12*):

"Dr. Beiglboeck treated the prisoners as humanly as ordinary patients. He was rough to them only when they obtained drinking water contrary to orders. I know definitely that none of the experimental subjects were turned over to the SS for punishment because of any offenses."

Witness Pillwein states in his affidavit (*Beiglboeck 32*, *Beiglboeck Ex. 21*):

"Q. How did Beiglboeck treat the inmates?

"A. Beiglboeck treated the patients well, which was a striking contrast to the treatment which we inmates received from the SS. Beiglboeck only became very angry when the gypsies lied to him regarding the drinking of water, and when he found out about it from the blood test."

* * * * * * *

d. Evidence

Prosecution Documents

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NO–184	132	Letter from the Technical Office of the Reich Minister of Aviation (Goering) to Himmler's office, 15 May 1944, concerning methods to render sea water potable.	447
NO–177	133	Minutes of conference at the Reich Ministry of Aviation, 20 May 1944, concerning methods for making sea water potable.	448
NO–185	134	Letter from Schroeder to Himmler and Grawitz, 7 June 1944, requesting subjects for sea-water experiments.	452
NO–183	136	Teletype from Rudolf Brandt to Grawitz, undated, concerning experimental subjects.	453
NO–182	137	Letter from Sievers to Grawitz, 24 July 1944, concerning experiments on the potability of sea water.	454

Defense Documents

Doc. No.	Def. Ex. No.	Description of Document	
Becker-Freyseng 42	Becker-Freyseng Ex. 29	Affidavit of Dr. Ludwig Harriehausen, 9 January 1947, regarding use of patients in sea-water experiments.	455

Testimony

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TRANSLATION OF DOCUMENT NO–184
PROSECUTION EXHIBIT 132

LETTER FROM THE TECHNICAL OFFICE OF THE REICH MINISTER OF AVIATION (GOERING) TO HIMMLER'S OFFICE, 15 MAY 1944, CONCERNING METHODS TO RENDER SEA WATER POTABLE

[Stamped] Secret

[Letterhead]
Reich Minister of Aviation
and Commander in Chief of the Luftwaffe
Technical Office
Ref. Nrs. 91a, 0016 GL/C–E (51V)
No: 26 773 secret
(In your answer to the above
reference, please give date and
short summary.)

Berlin W 8, 15 May 1944
Leipziger Strasse 7
Cable address: Reichsluft Berlin
Phones: Local: 520024
218241
120047
Long distance: 218011
Extension: 4335

Re: Rendering sea water potable.
Reference: Letter of the Reich Leader SS
No. 39/4/44 secret of 17 January 1944.
To: Reich Leader SS and Chief of the German Police,
Personal Staff.
Berlin

With reference to the interoffice conference between Oberstingenieur Christensen and Haupsturmfuehrer Engineer Dohle regarding the above-mentioned matter, it is announced that two processes have been worked out by the office to render sea water potable:

1. The I. G. method, using mainly silver nitrate. For this process quite a large plant needs to be set up, which would require about 200 tons of iron and cost about 250,000 RM. The amount of the product needed by the Luftwaffe and Navy requires 2.5 to 3 tons of pure silver a month. Besides, the water which is rendered potable by this preparation has to be sucked through a filter in order to avoid absorption of precipitated chemicals. These facts make the application of this process practically impossible.

2. The second process which was worked out is the so-called Berka method. According to this method, the salts present in the sea water are not precipitated, but are so treated that they are not disagreeable to the taste. They pass through the body without oversaturating it with salts and without causing an undue thirst. No special plants are necessary for producing preparations needed for this process; nor do the preparations themselves consist of scarce materials.

It can be presumed that this method will be introduced in the Luftwaffe and the navy in a short time. Now that German technical science has actually succeeded in rendering sea water potable for people in distress at sea, in accordance with the above, the knowledge as to how foreign countries intend to solve this problem is no longer of prime importance. Naturally the office is very much interested in ascertaining how, above all, the United States has solved this problem, and it is requested that this information be sought, without, however, compromising any person or any office too much.

Should the office there be interested in the Berka method, let us know. Samples can then be delivered.

The cube dispensed is not a preparation to render sea water potable, but a milk cube such as is already familiar to the offices.

[Signature illegible]

Enclosure: [Notation: both crossed out]
1 Milk cube

TRANSLATION OF DOCUMENT NO–177
PROSECUTION EXHIBIT 133

MINUTES OF CONFERENCE AT THE REICH MINISTRY OF AVIATION, 20 MAY 1944, CONCERNING METHODS FOR MAKING SEA WATER POTABLE

Personal Staff RF–SS.
Filing Department, File No./220/5

Technical Office
GL/C–E 5 IV No. 26860/44 secret

Berlin, 23 May 1944
[Handwritten] W 29.6

[Handwritten]:

Just received
for reading given
to RF [Himmler]
[Signature] R. Br. [Rudolf Brandt]
4/July

Reichsarzt SS

Minutes of the conference on 20 May 1944 re methods for making sea water drinkable

Present:

* * * * * * *

10. Oberstingenieur	Christensen	German Air Ministry—GL/C–E 5 IV	120047/28
11. Stabsingenieur	Dr. Schickler	dto.	120047/4335
12. Stabsingenieur	Berka	E–Tra	Vienna B 23566
13. Stabsarzt	Dr. Becker-Freyseng	Chief Medical Service	278313
14. Unterarzt	Dr. Schaefer	Luftwaffe Medical Research Institute	27 83 13

I. On 19 May 1944 a preliminary discussion was held at the Reich Air Minstry—GL/C–E 5 IV. Present were the following persons:

GL/C–E 5 IV	Obersting. Christensen
dto.	Stabsing. Dr. Schickler
E-Tra.	Stabsing. Berka
L. In. 14	Major Jeworrek
Chief of the Medical Service [Office]	Stabsarzt Dr. Becker-Freyseng
dto.	Unterarzt Dr. Schaefer
	Herr Pahl.

At this meeting Captain (med.) Dr. Becker-Freyseng reported on the clinical experiments conducted by Colonel (med.) Dr. von Sirany and came to the final conclusion that he did not consider them as being unobjectionable and conclusive enough for a final decision. The Chief of the Medical Service is convinced that, if the Berka method is used, damage to health has to be expected not later than 6 days after taking Berkatit, which damage will result in permanent injuries to health and—according to the opinion of N. C. O. (med.) Dr. Schaefer—will finally result in death after not later than 12 days.

External symptoms are to be expected such as drainage, diarrhea, convulsions, hallucinations, and finally death. As a result of the preliminary discussion it was agreed to arrange a new series of experiments of short duration. A commission was to be set up for the arrangement of these series of experiments. This commission should be set up together with the High Command of the Navy at the conference on 20 May 1944.

The series of experiments should include the following:

1. *a.* Persons to be given sea water processed with Berka method.
   b. Persons to be given ordinary drinking water.
   c. Persons without any drinking water at all.
   d. Persons given water treated according to the present method. (0.7 liters of drinking water for 4 persons and 4 days.)

[Shorthand notation]: One copy to be submitted to the ministry.

For the duration of the experiments all persons will receive only an emergency sea diet such as is provided for persons in distress at sea.

Duration of experiments: Maximum 6 days

In addition to these experiments a further experiment should be conducted as follows:

2. Persons nourished with sea water and Berkatit, and as diet also the emergency sea rations.

Duration of experiments: 12 days

Since in the opinion of the Chief of the Medical Service permanent injuries to health—that is, the death of the experimental subjects—have to be expected, as experimental subjects such persons should be used as will be put at the disposal by the Reichsfuehrer SS.

Herr Pahl reports that due to the latest improvements in the I. G. Farben method, smaller quantities of iron are needed for the construction of the manufacturing equipment than were orginally provided for and estimated by I. G. Herr Pahl reports further that if the Wofatit equipment which has to be constructed could not be used later for the manufacturing of the sea-water preparation another use would be quite possible. As to the silver problem GL/C–E 5 IV will check whether the necessary quantities of silver are available.

With GL/C–B 5 it is to be determined whether the same quantities of the preparations will be required as heretofore.

II. At the main conference on 20 May 1944, Stabsingenieur Dr. Schickler will report on work done since the last conference, especially re the results of the preliminary discussion described in part I.

The navy emphasizes that it is considered to be of great importance to obtain a method which under the given conditions could be introduced at once without undue delay. In the opinion of the navy the results obtained at the clinical experiments are sufficient, since they are mainly interested in being able to nourish their men 3 to 5 days with the preparation. A longer nourishing period up to 12 days would probably only be necessary in very few cases. But in spite of this the High Command of the Navy agrees that the series of experiments, as proposed by the Chief of the Medical Service in paragraph 1, should still be carried out.

These series of experiments should be finished and reported on not later than the end of June. During this period all preparations are to be made for the commencement of production according to the Berka method at a date not later than July 1st 1944, and also, if the I. G. method should be introduced, for the start of the construction of the necessary manufacturing equipment by the I. G.

The commission which has to determine the conditions for the series of experiments still to be conducted is composed as follows:

Professor Eppinger, Vienna, Representative of the Chief of the Medical Service of the Air Force

Representative of the German Air Ministry GL/C

Representative of the High Command of the Navy

Stabsarzt Dr. Becker-Freyseng is being contemplated as representative of the Chief of the Medical Service. Stabsingenieur Dr. Schickler and Stabsingenieur Berka as representatives of GL; and Professor Orzichowski as representative of the High Command of the Navy.

It was decided that Berlin, Reich Air Ministry GL/C–E 5 IV should be the meeting place of the commission. (The originally proposed meeting place was changed from Munich to Berlin after a telephone call from Dr. Becker-Freyseng); and that the meeting should be on 25 May 1944 at 10:00 a. m.

It was decided that Dachau was to be the place where the experiments should be conducted.

Stabsarzt Dr. Becker-Freyseng would invite Professor Eppinger and would get in touch with the Reich Leader SS. The High Command of the Navy would invite Professor Orzichowski.

Distribution:

High Command of the Navy—Medical Department

High Command of the Navy, Department for Research, Inventions and Patents

Research Operation of the Reich Ministry for Aviation and High Command of the Luftwaffe

For information of:

Medical Experimentation and Instruction Division of the Air Force Jueterbog

E-Office Rechlin (E med)

Institute for Aviation Medicine,

D. V. L., Berlin-Adlershof

L. In. 14. 1. Abt. 2 Abt., Gruppe 3, KTB

Reich Leader SS

Technical Academy, Vienna

[Signature] C. CHRISTENSEN

[Handwritten]

A—

RSHA. Through asocial gypsies

GEBHARDT.

[Stamp]

Personal Staff RFSS—enclosures received on: 12 June 1944

Journal No. 39/4/44g.

to:

TRANSLATION OF DOCUMENT NO–185
PROSECUTION EXHIBIT 134

LETTER FROM SCHROEDER TO HIMMLER AND GRAWITZ, 7 JUNE 1944, REQUESTING SUBJECTS FOR SEA-WATER EXPERIMENTS

[handwritten] Top Secret
Chief Medical Service of the Luftwaffe
File: 55 Nr. 510/44 top secret (2F)

Saalow, 7 June 1944
ueber Zossen/Land
2 Copies—1st copy

To the Reich Minister of the Interior and Reich Leader SS
through Reich Physician SS and Police
Berlin W, Knesebeckstr. 51

Highly respected Reich Minister!

Earlier already you made it possible for the Luftwaffe to settle urgent medical matters through experiments on human beings. Today again I stand before a decision which, after numerous experiments on animals as well as human experiments on voluntary experimental subjects, demands a final solution. The Luftwaffe has simultaneously developed two methods for making sea water potable. The one method, developed by a medical officer, removes the salt from the sea water and transforms it into real drinking water; the second method, suggested by an engineer, leaves the salt content unchanged, and only removes the unpleasant taste from the sea water. The latter method, in contrast to the first, requires no critical raw material. From the medical point of view this method must be viewed critically, as the administration of concentrated salt solutions can produce severe symptoms of poisoning.

As the experiments on human beings could thus far only be carried out for a period of 4 days, and as practical demands require a remedy for those who are in distress at sea up to 12 days, appropriate experiments are necessary.

Required are 40 healthy test subjects, who must be available for 4 whole weeks. As it is known from previous experiments that necessary laboratories exist in the concentration camp Dachau, this camp would be very suitable.

Direction of the experiments is to be taken over by Stabsarzt Dr. Beiglboeck, civilian; Chief Physician of the Medical University Clinic in Vienna, Professor Dr. Eppinger. After receipt of your basic approval, I shall list by name the other physicians who are to participate in the experiments.

Due to the enormous importance which a solution of this problem has for shipwrecked men of the Luftwaffe and navy, I would be greatly obliged to you, my dear Reich Minister, if you would decide to comply with my request.

Heil Hitler!
[Signature] SCHROEDER

TRANSLATION OF DOCUMENT NO-183
PROSECUTION EXHIBIT 136

TELETYPE FROM RUDOLF BRANDT TO GRAWITZ, UNDATED, CONCERNING EXPERIMENTAL SUBJECTS

[stamp] Top Secret

Teletype:

To the Reich Physician SS and Police SS Obergruppenfuehrer Dr. Grawitz,
Berlin

Subject: Experiments by the Chief of the Medical Service of the Luftwaffe.

Reference: Your letter of 28 June 1944—Journal Number 13/44 secret

Obergruppenfuehrer!

The Reich Leader SS has decided that in accordance with the suggestion of SS Gruppenfuehrer Nebe, gypsies should be used for the experiments. In addition, three other prisoners will be made available.

Heil Hitler!
[Signed] BRANDT
SS Standartenfuehrer

TRANSLATION OF DOCUMENT NO–182
PROSECUTION EXHIBIT 137

LETTER FROM SIEVERS TO GRAWITZ, 24 JULY 1944, CONCERNING EXPERIMENTS ON THE POTABILITY OF SEA WATER

Reich Leader SS
Personal Staff "Office–A"

(13a) Waischenfeld/Ofr.
No. 135, Tel. No. 2
24 July 1944

Secret

SS Standardtenfuehrer Ministerialrat Dr. Brandt, for information.

To SS Obergruppenfuehrer Reich Physician SS and Police Dr. Grawitz
Berlin W 15, Knesbeckstr. 51

[Handwritten remark]
Gbl 29.7

Subject: Experiments on the potability *of sea water.*
Refer: Your letter of 11 July 1944, Journal No. 13/SS top secret

Dear Obergruppenfuehrer!

I want to inform you about my talks with SS Hauptsturmfuehrer Dr. Ploetner and Chief Physician Beiglboeck in Dachau on 20 July. There will be employed: 1 person in charge, 3 medical chemists, 1 female assistant, 3 ranks for supervision. Prospective time: 3 weeks. In our research station only the 40 experimental persons can be accommodated, otherwise there is absolutely insufficient room since the Ploetner section is fully occupied and work cannot be interrupted. Our laboratory is insufficiently equipped, since some essential equipment is wanting. In spite of serious difficulties, the following agreement was arrived at: 1. In the Ploetner section a desk will be reserved (in the laboratory). 2. The remaining rooms will be placed at our disposal in our Entomological Institute for a period of 3 weeks. Equipment needed must be provided by the Luftwaffe. Thus it will be assured that the female assistants can work in Dachau too, because the Entomological Institute is located outside the concentration camp. 3. Billet must be arranged between Chief Physician Dr. Beiglboeck and the commandant's office, since we have no billets at our disposal. 4. SS Hauptsturmfuehrer Dr. Ploetner will give his assistance, help, and advice. He was, however, not selected for internal guidance, because this is being done by the Luftwaffe physicians themselves.

The experiments are to begin on July 23 if experimental persons are available by then and the camp commandant is in possession of the required order of the Reich Leader SS. Dr. Beiglboeck himself wanted to get in touch with SS Hauptsturmfuehrer Frowein, Adjutant of the Reich Physician SS, on this subject.

I hope that this arrangement may permit a successful conduct of the experiments. When the results are reported at the proper time, please arrange to point out the participation and assistance of the Reich Leader SS.

With best regards and

Heil Hitler!

[Signature] SIEVERS
SS Standartenfuehrer

PARTIAL TRANSLATION OF BECKER-FREYSENG DOCUMENT 42
BECKER-FREYSENG DEFENSE EXHIBIT 29

AFFIDAVIT OF DR. LUDWIG HARRIEHAUSEN, 9 JANUARY 1947, REGARDING USE OF PATIENTS IN SEA-WATER EXPERIMENTS

* * * * * * *

Dr. Schroeder, as my superior, often visited the hospitals in my charge, especially the Luftwaffe hospital in Brunswick of which I had been medical superintendent since 1942.

* * * * * * *

I recall very well that I was once asked whether it would be possible to carry out control experiments with sea water, made drinkable by various methods, on patients suffering from minor complaints and the slightly wounded in the Luftwaffe hospital in Brunswick which was under my supervision. Whether Professor Dr. Schroeder or one of his representatives put this question to me, and at what exact time, I cannot recall exactly. It could have been in June 1944. I had to refuse the undertaking of such experiments, as I had strict orders to send all patients and wounded who could be released back to the troops; thus I did not have at my disposal hospital inmates suitable for these experiments. Furthermore, the hospital was overcrowded at this time and was, therefore, not suitable for scientific experiments. I can also recall clearly that, at a later time, I again spoke to Professor Dr. Schroeder about this matter, and that he expressed his regret on this occasion that these experiments could not be carried out in the Luftwaffe hospital in Brunswick which was under my direction.

* * * * * * *

EXTRACTS FROM THE TESTIMONY OF PROSECUTION WITNESS KARL HOELLENRAINER*

DIRECT EXAMINATION

* * * * * * *

R. HARDY: Now, Witness, for what reasons were you arrested by the Gestapo on 29 May 1944?

WITNESS HOELLENRAINER: Because I am a gypsy of mixed blood.

Q. And after your arrest you were sent to the Auschwitz concentration camp?

A. Yes.

Q. How long did you remain in Auschwitz?

A. About 4 weeks.

Q. And then where were you placed?

A. I was sent to Buchenwald.

Q. How long did you stay in Buchenwald?

A. I only stayed there for a few days.

Q. And then what happened to you?

A. I was in Buchenwald, and suddenly our numbers were called. Forty men were called out, including me, and we were told that we were going to Dachau to work. As soon as we arrived at Dachau we were put in a quarantine block. One day an SS man came and wrote down our numbers, and then we were X-rayed. Afterwards they sent us to the surgical department of a certain Luftwaffe doctor. I am afraid I can't remember the physician's name. I know that he was in the Luftwaffe and that he was an Austrian. He examined all of us, and then we were divided into groups for a sea-water experiment.

Q. Just a moment, Witness. I now want to ask you some brief questions concerning what you have just told us. You state that you went to Dachau to work. Did you consider going to Dachau to be good fortune?

A. Yes; a friend of mine, a gypsy, had already been to Dachau, and he told me that the situation was much better and that we would get better food. But that was not the case.

Q. Well, did you understand what you were to do when you went to Dachau, what type of work was it, bomb disposal or removal?

A. Yes. We went there to work.

Q. Did you understand that you were going to Dachau to volunteer for sea-water experiments?

A. No, never.

Q. Now, upon arrival in Dachau you then went to the quarantine block, is that correct?

---

*Complete testimony is recorded in mimeographed transcript, 27 June, 1 July 1947, pp. 10229–10235, 10508–10545.

A. Yes.

Q. You stayed there for a day or two and were given a physical examination?

A. Yes.

Q. Did you also get an X-ray examination?

A. Yes.

Q. And then you were transferred to the experimental block?

A. Yes.

Q. And there you met a professor or a doctor?

A. Yes.

Q. Do you think you would be able to recognize that doctor if you saw him today?

A. Yes, immediately. I would recognize him at once.

Q. Would you kindly stand up from your witness chair, take your earphones off, and proceed over to the defendants' dock, and see if you can recognize the professor that you met at Dachau?

(Witness leaves the stand.)

Q. Walk right over, please.

(Witness attempts assault on the defendant Beiglboeck.)

MR. HARDY: The prosecution apologizes for the conduct of the witness, your Honors. Due to the manner of this examination, the prosecution will have no further questions, your Honors.

PRESIDING JUDGE BEALS: The marshal will keep the witness guarded before the Tribunal.

Dr. STEINBAUER (counsel for the defendant Beiglboeck): I have no questions to put to the witness.

Presiding JUDGE BEALS: Will the marshal bring the witness before the bar of this Court? Will an interpreter come up here who can translate to the witness?

Witness, you were summoned before this Tribunal as a witness to give evidence.

WITNESS HOELLENRAINER: Yes.

Q. This is a court of justice.

A. Yes.

Q. And by your conduct in attempting to assault the defendant Beiglboeck in the dock, you have committed a contempt of this Court.

A. Your Honors, please excuse my conduct. I am very excited.

Q. Ask the witness if he has anything else to say in extenuation of his conduct.

A. Your Honors, please excuse me. I am so worked up. That man is a murderer. He has ruined my whole life.

Q. Your statements afford no extenuation of your conduct. You have committed a contempt in the presence of the Court, and it is the judgment of this Tribunal that you be confined in the Nuernberg

prison for the period of 90 days as punishment for the contempt which you have exhibited before this Tribunal.

A. Would the Tribunal please forgive me. I am married and I have a small son. This man is a murderer. He gave me salt water and he performed a liver puncture on me. I am still under medical treatment. Please do not send me to prison.

Q. That is no extenuation. The contempt before this Court must be punished. People must understand that a court is not to be treated in that manner. Will the marshal call a guard and remove the prisoner to serve the sentence which this Court has inflicted for contempt? It is understood that the defendant is not to be confined at labor. He is simply to be confined in the prison, having committed a contempt in open court by attempting to assault one of the defendants in the dock.

MR. HARDY: At this time, your Honor, the prosecution will request a brief recess, if your Honors please.

PRESIDING JUDGE BEALS: Very well, the Tribunal will be in recess for a moment.

(A recess was taken.)

* * * * * * *

THE MARSHAL: The Tribunal is again in session. [1 July 1947.]

MR. HARDY: The prosecution wishes to recall the witness Karl Hoellenrainer to the witness stand, your Honors.

PRESIDING JUDGE BEALS: The marshal will summon the witness Hoellenrainer.

(The witness Karl Hoellenrainer took the stand.)

JUDGE SEBRING: You will raise your right hand and be sworn. I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

(Witness repeated the oath.)

PRESIDING JUDGE BEALS: Counsel may proceed.

DIRECT EXAMINATION

MR. HARDY: Witness, your name again is Karl Hoellenrainer?

WITNESS HOELLENRAINER: Yes.

Q. Witness, at the close of your testimony the other day, you were proceeding to tell the Tribunal about your activities after your arrival at the Dachau concentration camp?

A. Yes.

Q. Now, when did you arrive for the first time at the Dachau concentration camp?

A. That was about the middle of July.

Q. And then you stayed at the camp hospital for a period of 1 or 2 days?

A. In Auschwitz?

Q. No, in Dachau, after your arrival?

A. Yes, yes, in Dachau.

Q. And then you were examined physically and also X-rayed?

A. Yes.

Q. After you had been physically examined and X-rayed, what happened to you?

A. Then, we came into the so-called surgical department. We were 40 men. Then a Luftwaffe doctor came and examined us. We had to take our clothes off and stand in line. Then he said, "Well, you will be given good food, such as you have never had, and then you won't get anything to eat at all, and you will have to drink sea water." One of the prisoners whose name was Rudi Taubmann jumped up and refused. He was in an experiment, a cold-water experiment, and he didn't want to be in any more experiments. The doctor from the Luftwaffe said, "If you are not quiet, and want to rebel, I will shoot you on the spot." The doctor from the Luftwaffe always had a pistol, and then we were all quiet. For about one week we got cookies, rusks, and brown sugar. There were about 21 little cookies, and three or four little pieces of dextrose. Otherwise, we got nothing. The 8 days—

Q. Just a moment. Did you at any time volunteer for these experiments?

A. No.

Q. Were you asked whether or not you wished to volunteer for the experiments?

A. No.

Q. Were any of the other inmates asked if they would like to volunteer?

A. No.

Q. Was the young Mettbach a volunteer, the youngest Mettbach?

A. I know only one Ernst Mettbach from Fuerth, but I don't know whether he volunteered.

Q. Was Ernst Mettbach in the experiments throughout; that is, did he complete the experiments?

A. No, he was only there a short time, 2 or 3 days maybe. Then, the doctor from the Luftwaffe put him out, and where he went I don't know.

Q. Now, did the professor ask anyone for his approval before he was subjected to the sea-water experiments?

A. No.

Q. Did the professor or any of the other Luftwaffe physicians talk to the inmates and advise them as to the hazards of the experiment prior to the commencement of the actual experiments?

A. No.

Q. Now, will you, in detail, tell the Tribunal just what food the experimental subjects received prior to the experiments, during the course of the experiments, and after the experiments, and in doing so, Witness, kindly talk very slowly and distinctly so that the interpreters will be able to translate you more efficiently.

A. Yes. At first we got potatoes, milk, and then we got these cookies and dextrose and rusks. That lasted about 1 week. Then we got nothing at all. Then the doctor from the Luftwaffe said, "Now, you have to drink sea water on an empty stomach." That lasted about 1 or 2 weeks. This Rudi Taubmann, as I already said, got excited and didn't want to participate; and the doctor from the Luftwaffe said, "If you get excited and mutiny, I will shoot you," and then we were all quiet. Then we began to drink sea water. I drank the worst kind, that was yellowish. We drank two or three times a day, and then in the evening we drank the yellow kind. There were three kinds of water, white water, and yellow water [two kinds]; and I drank the yellow kind. After a few days the people became raving mad; they foamed at the mouth. The doctor from the Luftwaffe came with a cynical laugh and said, "Now it is time to make the liver punctures." I remember one very well.

Q. Talk more slowly, Witness. Thank you.

A. Yes. The first row on the left when you came in, the second bed, that was the first one. He went crazy and barked like a dog. He foamed at the mouth. The doctor from the Luftwaffe took him down on a stretcher with a white sheet over him, and then he stuck a needle about this long (indicating) into his right side, and there was a hypodermic needle on it, and it bled, and it was very painful. We were all quiet and excited. When that was over, the other inmates took their turn. The people were crazy from thirst and hunger, we were so hungry—but the doctor had no pity on us. He was as cold as ice. He didn't take any interest in us. Then, one gypsy—I don't know his name any more—ate a little piece of bread once, or drank some water; I don't remember just what he did. The doctor from the Luftwaffe got very angry and mad. He took the gypsy and tied him to a bed post and sealed his mouth.

Q. Witness, do you mean that he put adhesive tape over this gypsy's mouth?

A. Yes.

Q. Go ahead, continue.

A. Then a gypsy, he was lying on the right, a big strong, husky fellow, he refused to drink the water. He asked the doctor from the Luftwaffe to let him go. He said he couldn't stand the water. He was sick. The doctor from the Luftwaffe had no pity, and he said, "No, you have to drink it." The doctor from the Luftwaffe told one of his assistants to go and get a sun. Naturally, we didn't know what

a sun was. Then one of his assistants came with a red tube about this long (indicating) and thrust this tube first into the gypsy's mouth and then into his stomach.

Q. Just a moment. That tube was how long? How long would that be, a half a meter long?

A. About this long (indicating).

Q. That will be about a half a meter?

A. Yes, about a half a meter. And then the doctor from the Luftwaffe took this red tube and put it in the gypsy's mouth and into his stomach. And then he pumped water down the tube. The gypsy kneeled in front of him and beseeched him for mercy but that doctor had none.

Q. Witness, during the experiments was your temperature taken?

A. Yes.

Q. Who took your temperatures?

A. There were two Frenchmen, one tall thin and one short blond one; and they took the temperatures and the doctor from the Luftwaffe took the temperatures, too.

Q. When you say "the doctor from the Luftwaffe" you mean the man you referred to as the "professor." The professor and the doctor from the Luftwaffe are the same or are they two different people?

A. Yes.

Q. I see. Thank you. Now, who performed the liver punctures?

A. The doctor from the Luftwaffe carried out the liver punctures himself. Some people were given liver punctures and at the same time a puncture in the spinal cord. The doctor from the Luftwaffe did that himself. It was very painful. Something ran out at the same time at the back. It was water or something—I don't know what it was.

Q. Well, did you receive a liver puncture?

A. Yes.

Q. Did the professor tell you for what reason he gave you that liver puncture?

A. The doctor from the Luftwaffe came to me and said, "Now, Hoellenrainer, it's your turn." I was lying on the bed. I was very weak from this water and from not having anything to eat. He said, "Now, lie on your left side and take the clothes off your right side." I held on to the bedstead on top of me and the doctor from the Luftwaffe sat down next to me and pushed a long needle into me. It was very painful. I said, "Doctor, what are you doing?" The doctor said, "I have to make a liver puncture so that the salt comes out of your liver."

Q. Now, Witness, can you tell us whether or not the subjects used in the experiments were gypsies of purely German nationality or were

there some Polish gypsies, some Russian gypsies, Czechoslovak gypsies, and so forth?

A. Yes, there were about seven or eight Germans and the rest of them were all Poles and Czechs, Czech gypsies and Polish gypsies.

Q. Were any of the experimental subjects ever taken out of the station room to the yard outside the experimental barracks?

A. Yes, at the end when the experiments were all finished; and three people were carried out with white sheets over them on a stretcher. They were covered with sheets but I don't know whether they were dead or not. But we, my colleagues and I, talked about it. We never saw these three again, neither at work nor anywhere in the camp. We often talked about it and wondered where they were. We never saw them again. We thought that they were dead.

Q. Do you know where they were taken?

A. No, I don't know.

Q. Well, during the course of the experiments were you weighed every day?

A. Yes. We were weighed, too.

Q. Was that every day or every other day?

A. I don't remember exactly.

Q. Well, now, after the completion of the experiments in early September what happened to you?

A. When we had finished the experiments?

Q. Yes.

A. I told you that already. We were sent to the hospital and the doctor from the Luftwaffe came and said we were to take our clothes off and we lined up and were divided into three groups. The doctor from the Luftwaffe said, "Now you will be given good food. You have never had such good food." We were given potatoes, dextrose, cookies, milk—

Q. Just a minute, Witness. I am referring to the end of the experiments, after the experiments were all completed. Could you tell us what date your experiments were completed and you were transferred from the experimental station?

A. The experiment lasted, maybe, 4 or 5 weeks altogether. I don't know the date.

Q. Well, then, they were completed in early September. Is that correct? You arrived—

A. Yes.

Q. Now, after the experiments were completed did you then return to the camp proper or to the camp hospital?

A. No, to the camp, into Block 22. We couldn't walk. We all had to support each other. We were exhausted. I forgot to tell you one thing. Before we began the experiments and we had this good food

for about one week, the doctor took us out into the courtyard near the hospital. The doctor from the Luftwaffe came. He had a little bottle in his hand and we all had to line up. There was some liquid in the bottle and he put a number on our chest. I had number "23." It burned a lot. Then we went back into the block. On every bed there was a number, the same number we had on our chests. One man—but I don't remember who it was—one of the inmates, said: "That is what they call the death number." I was pretty scared and the inmates said, "Yes, that is the death number so that the doctor of the Luftwaffe will know right away who is dead."

We didn't want to go on with the experiments but what choice did we have? We were just poor prisoners. Nobody bothered about us. We had to let them do with us what they wanted. We couldn't resist. I haven't got the power to relate everything as it—

Q. All right. Just a moment. Was your bed number "23"?

A. Yes.

Q. Then you were considered to be experimental subject number 23?

A. Yes.

Q. Were you sick during the course of the experiments, Witness?

A. Yes.

Q. Now, Witness, after the completion of the experiments in early September were you then called in and weighed to determine your weight about 2 weeks later?

A. No, not after 2 weeks.

Q. Were you called in and weighed 1 week after you had completed the experiments? Do you remember?

A. I don't remember. But we were weighed.

Q. You were weighed every day during the experiments?

A. Yes.

Q. What I want to know is, were you weighed after the completion of the experiments? For instance, you were weighed every day during the experiments; then the experiments were completed; then you were not weighed again for a period of 1 or 2 weeks. Did you get weighed 1 or 2 weeks after the completion of the experiments?

A. When the experiment was all finished? No.

Q. Well, now after you left the experimental block and went to the camp how long was it before you were able to resume work?

A. A few days. Then we were sent in a detachment to a farm in Feldmochingen. We had to work hard and the food was better than in the camp but, you know, if you are a prisoner, what did the farmers give you? A little bread, some soup—but, in any case it was better than in the camp; and then every evening we came back to our block and then we got the regular camp food.

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DR. STEINBAUER: When you were examined the first time you said that you had no previous convictions. Do you maintain this assertion?

WITNESS HOELLENRAINER: No, I have been convicted.

Q. Then why did you lie?

A. I did not lie. I meant from the experiments.

Q. The question was whether before you came to the Gestapo you had ever been convicted and punished by the police. Nothing was mentioned about experiments at that time. That's an excuse. Do you admit that you lied? It's much better for you.

A. No. I did not lie.

Q. Well, you have been convicted?

A. Yes.

Q. For theft?

A. Yes.

Q. For fraud?

A. Yes.

Q. For assault?

A. Yes.

Q. For blackmail?

A. What do you mean by that?

Q. Well, coercion.

A. No.

Q. For using a false name?

A. No. I never used a false name.

Q. You have to speak more slowly. We will come back to that. You were arrested then for desertion?

A. Yes.

Q. You were prosecuted for desertion?

A. Yes.

Q. You refused to obey your draft order?

A. Yes.

Q. Isn't that why you were sent to the concentration camp?

A. No, I was sent to the concentration camp merely because I am a gypsy. My brothers were in the war and they came back from Russia and were sent to Sachsenhausen and were murdered there, because there weren't supposed to be any more gypsies in the German Army.

Q. What kind of a badge did you wear in the camp?

A. A black one.

Q. You and your wife, too, have stated that you participated in malaria, phlegmon, typhoid, and sea-water experiments?

A. No, only this one experiment, no malaria.

Q. Do you admit that you lied to the young doctor who talked to you?

A. No, I didn't lie to the doctor. I just told him the exact truth. My wife and I weren't allowed to marry. My wife had a child from me and it was cremated in Birkenau. My sister was cremated and both her children.

Q. Don't get excited. I asked you whether you told the young doctor that you were in four different experiments. All you have to say is yes or no.

A. I told the doctor I drank salt water.

Q. Listen, Herr Hoellenrainer, don't be evasive as gypsies usually are. Give me a clear answer as a witness under oath. Did you tell the doctor that you participated in other experiments, yes or no?

A. No. I just drank salt water.

MR. HARDY: Your Honor, the testimony of this doctor is not in evidence before this Tribunal. I don't understand what Dr. Steinbauer is referring to.

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DR. STEINBAUER: You said you were in Auschwitz?

WITNESS HOELLENRAINER: Yes.

Q. Were you in the Birkenau extermination camp?

A. Yes.

Q. Were the gypsies in a big camp there?

A. Yes.

Q. Were there women and children there?

A. Yes.

Q. Did you have a wife there?

A. Yes, my fiancee, Ida Schmidt. She was gassed. She was burned to death. I never saw her again.

Q. Didn't you once beat your wife until the blood spurted out on to the wall?

A. No.

Q. Did you ever beat her?

A. No.

* * * * * * *

Q. I asked you whether what I have just read to you is true, that you were divided up and your numbers were called out, etc.?

A. We weren't asked at all. Forty of us were collected together and we were sent to Dachau.

Q. Now, I have to tell you that your countryman—he is from Fuerth too, called Mettbach—said that he talked to you and particularly said that he wanted to go to Dachau because it was nearer Fuerth than Buchenwald; is that true?

A. That might be. I didn't mind going to Dachau either because my brother lived in Munich.

Q. Then you did go voluntarily?

A. No, I did not.

Q. How does it happen that Laubinger said something else? Laubinger said you were deceived, that is why you volunteered?

A. No, I never volunteered. I certainly wouldn't volunteer for these death experiments.

Q. Well, you went to Dachau?

A. Yes.

Q. Do you know the old Herzberg?

A. No.

Q. You don't remember the gypsy from Bratislava?

A. No.

Q. Who was the oldest gypsy?

A. I don't remember.

Q. You were with your comrades for weeks and don't know their names?

A. No.

Q. It is possible that Mettbach did not know all the names then, isn't it?

A. How should I know? I did not have time to ask everybody what his name was.

Q. When the experiments were to begin, did the professor explain the purpose? That it was for rescuing people from shipwrecks, and that it was a sea-water experiment?

A. Yes, of course.

Q. Did he explain that you would be very thirsty?

A. Yes, he did first.

Q. And that thirst was very unpleasant?

A. Yes.

* * * * * * *

Q. Witness, the thirst dried out the mouth?

A. Yes.

Q. How can you explain that these people foamed at the mouth?

A. They had fits and foamed at the mouth, they had fits of raving madness.

Q. I am just asking you how there can be foam on a mouth which is completely dried out?

A. I don't know.

Q. You don't know. Then some became mad?

A. Yes.

Q. You gypsies stick together, don't you?

A. Yes, of course.

Q. Then you must be able to tell me who became mad?

A. I don't remember.

Q. You must know. If a friend of mine—I was a soldier twice—and if a friend of mine had gone mad then I would have noticed it.

A. It was a tall man who was in the first row. He was the first one to start. He became raving mad and had fits and thrashed around with his hands and feet. He was a tall slim gypsy.

Q. You said that you were weighed?

A. Yes.

Q. Isn't it possible that after the experiment, when you received good food again and plenty of water, you were re-weighed?

A. No.

Q. But then they had a chart showing where you were weighed every day?

A. I don't know.

Q. Were you weighed standing up or lying down?

A. Standing up.

Q. Were some of the people weighed lying down?

A. I don't remember.

Q. Were the scales ones on which people could be weighed lying down?

A. I don't know.

Q. What did these scales look like?

A. Well, they were big scales. You had to stand on it. There was an indicator which showed the weight.

Q. The man who had his mouth sealed, did he have a tube in his stomach too?

A. I don't remember.

Q. Your liver was punctured?

A. Yes.

Q. Do you have a scar?

A. A scar? I don't know.

Q. Don't you ever look at your body?

A. Yes. You want to see it?

Q. No. I am just asking you if you have a scar?

A. You mean a little mark?

Q. Have you a little round scar there?

A. I did not look as carefully as that.

Q. Well, do you think you have one or not?

A. I don't know. I didn't bother with these camp matters any more, otherwise I would go crazy. I don't want to hear anything more about the camp. We suffered long enough.

Q. Witness, do you think you are mad or mentally retarded?

A. No. I don't think I am mad. I said, I'd very soon go mad if I thought about these things at the camp.

Q. Do you think there is something wrong with you mentally?

A. No.

Q. You say you are going crazy?

A. Well, if I keep thinking of that camp.

MR. HARDY: I object to this line of questioning, your Honor.

DR. STEINBAUER: Well, your liver was punctured?

A. Yes.

Q. Do you know whether you have a scar, yes or no?

A. I don't know.

Q. What was the nationality of the people in the camp who were experimental subjects?

A. Poles and Czechs.

Q. How many Germans were there?

A. Seven or eight, who spoke German.

Q. Were there some Hungarians and Burgenlaender?

A. No. I don't know.

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EXTRACTS FROM THE TESTIMONY OF DEFENDANT BEIGLBOECK*

CROSS-EXAMINATION

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MR. HARDY: Do you have any ability to write shorthand, Doctor?

DEFENDANT BEIGLBOECK: Yes, I know shorthand.

Q. Are these your stenographic notes on the back of Document C–23?

A. Yes.

Q. Would you kindly read those to the Tribunal—transcribe them? Would that be too difficult, or would you like to have me give you my transcription of them to aid you?

A. It says: "The thirst acquires forms which are difficult to bear. The patient is apathetic."

Q. Pardon me, Doctor. It might be helpful if you used this transcription. I have had experts transcribe the notes; and then the interpreters can follow us more readily. I have the English copies also for the Tribunal to follow you, and if you have any discrepancy to point out with transcription as set out in the English—

JUDGE SEBRING: Are you offering this, Mr. Hardy?

MR. HARDY: That is a problem, your Honor. I want to have him transcribe the notes, and when the Tribunal settles who will offer this document into evidence, either the defense or prosecution, at that time, if necessary, I will give this a document number. I think we will have to wait to clarify that point later.

Q. Would you check that transcription, Professor?

A. That is correct, except in the first line it says—

*Complete testimony is recorded in mimeographed transcript, 6, 9, 10, 11, 12, 17 June 1947, pp. 8666–9028, 9326–9329.

PRESIDING JUDGE BEALS: You have read your own stenographic notes, have you not?

DEFENDANT BEIGLBOECK: Yes, and I have compared them with this transcription.

Q. What you should now read is your own version of these shorthand notes as you say they are correctly read. You understand that? You can read them from that, as you corrected it. You can read them from shorthand direct or from the typewritten transcription, as you please. Read slowly, too, please.

MR. HARDY: While he is reading that, your Honor, I suggest that he stop at the correction he wishes to make and we can correct our English copy and the interpreters can correct the German copy.

PRESIDING JUDGE BEALS: He will call attention to the corrections which you make.

DEFENDANT BEIGLBOECK: "The thirst assumes forms difficult to endure." The second version reads: "already unendurable". My notes do not read like that.

"The thirst assumes forms difficult to endure. The patient lies there quite motionless with half-closed eyes. The patient lies apathetically. He takes little notice of his surroundings. He asks for water only when he awakes from his somnolent condition.

"The appearance is very bad and shows signs of a decline. The general condition gives no cause for alarm.

"Respiration somewhat flatter, moderately frequent.

"Respirations 25 per minute.

"The eyes are deeply hollowed", it should read "deeply". Here it says "often".

"The turgor of the skin greatly reduced.

"Skin dry, tongue completely dry, whitish coating in the middle fairly free.

"The mucous membranes of the mouth and the lips dry, latter covered with crusts. Lungs show slight very dry bronchitis, lower border VI–XI." It is supposed to read "XI". Originally it said "XII" and apparently I corrected it to read "XI."

"Sharpened vesicular", the word "breathing" is omitted here, of course.

"Sharpened vesicular breathing"—that is a medical expression.

"Heart beats very low, barely audible. Pulse weak. Filled. Palpability of the pulse worse." Here it says that the pulse is "felt" and it should be "filled". The pulse is less full.

Then this which is described here as undecipherable reads: "The cell walls are somewhat thickened." Here I probably said "more strongly thickened".

"Liver 2½–3 fingers below sternal margin, rather soft, moderately sensitive to pressure."

"Spleen soft" is wrong. It says: "Spleen reutoric, enlarged in a ring form, slightly enlarged."

"Musculature hypotonic. Joints can be extended excessively. Calves slightly sensitive to pressure." Then what is described here as illegible reads: "Indication of horizontal welt formation strong welt vertical formation." That refers to the reaction of the muscle upon knocking, the so-called ideo-muscular welt.

Q. Would you kindly start that paragraph again and read it as it is written?

A. It reads here: "Musculature hypotonic. Joints can be extended excessively. Calves slightly sensitive to pressure. Indication of horizontal welt formations. Strong vertical welt formations." Up to this point, that is how it reads in the text; then in order to explain it, I added that we were concerned with the so-called ideo-muscular welt.

Further the text continues: "Reflexes" with two little crosses, that is, they react strongly. "Abdominal reflexes", also two little crosses. "Romberg" as it says here. "Babinski negative".

"Left"—here it says "Leif" "phenomenon". Here on the left, "phenomenon of Becher". "Oppenheim negative". "Rosselimo negative". "Bulbous reflex bad". "Tonus of the bulb of the eye bad". "Bulbous reflex" with a little cross—that is positive.

[Interruption.]

Q. Now, Professor Beiglboeck, looking over these stenographic notes in the sentence in the first paragraph, which will be the third sentence, which states: "He takes little notice of his surroundings", has an erasure been made in the stenographic notes in that sentence?

A. No. I can't see any.

Q. In place of the word "little" which appears in the present text on the back of C–23, was there originally a symbol, stenographic symbol for the word "no" and then the word "no" was erased and replaced by the word "little"?

A. I see here that actually something else had been written there; probably at the time I wrote over it. I don't see anything erased.

Q. Now, in the sentence in the same paragraph, the first paragraph, the fourth sentence where it states: "He asks for water only when he awakes from his somnolent condition", did another word appear in the same place as the character for "somnolent condition"? Did another word appear in the same place as the character for "somnolent" now appears, and can you make out whether or not that other character that has been erased was the word "semiconscious" and has now been replaced by "somnolent"? I think the original character can be well recognized to read "semiconscious".

A. What is legible under here says: "Numb".

Q. After the sentence that I have just read: "He asks for water—"

PRESIDING JUDGE BEALS: I did not understand the witness' explanation of that last double reading of the shorthand. What was your explanation, Witness?

DEFENDANT BEIGLBOECK: The German word "benommen", numb.

Q. Numb? Not unconscious?

A. Numb.

MR. HARDY: In the first instance, in the sentence: "He takes little notice of his surroundings", is an erasure noticeable there, in that the word "no" has been replaced by the word "little"?

DEFENDANT BEIGLBOECK: Something has been written over.

Q. Will you show that to the Tribunal, please, that character that has been written over? Would you point that out to them, Doctor? Point out the character in that sentence: "He takes little notice of his surroundings", and point that out, this character here (indicating) on the second line of characters.

MR. HARDY: Here it is, your Honor, the last character on the page.

Q. Now, would you show the Tribunal also where the word "semi-conscious" or "numb" appeared and that has also been written over? That is the last character on the third line.

A. Yes, here (indicating).

Q. Now, after the sentence: "He asks for water only when he awakes from his somnolent condition," which is the fourth stenographic line on the back of chart C–23, we notice that an entire line or half line has been erased. This half line had previously contained stenographic symbols but they are now no longer identifiable. Is that correct?

A. Yes. Something has been erased here.

MR. HARDY: Your Honors can see the red erasure that has been used to erase that half line of characters; the impression of the eraser is still obvious there.

Q. Now, Professor, in the sentence in the next paragraph of stenographic notes, the second sentence reads: "The general condition gives no cause for alarm." Is that correct?

A. Yes.

Q. Now, throughout your writing of these characters, between each word you usually leave a space to indicate another word, do you not? That is very clear throughout your transcription. You have left spaces between each character signifying words. Is that correct?

A. No. It varies. Sometimes the words are written closer together, quite closely, for example here (indicating).

Q. Well now, here in this sentence where it says, "The general condition gives no cause for alarm", the word "no"—that is, this character here—does not have the spaces between it that all the other characters on the sheet have, does it? In fact, the symbol for "no" touches the previous symbol for "general condition", leaving no

spacing. Did you add the word "no" at a later date in a different pencil?

A. No. I do that quite frequently. When something is written above the line in shorthand I raise the adjoining sign as well.

Q. Now, if you will turn to the sentence in the third paragraph which reads: "Respiration somewhat flatter, moderately frequent". The word "is" appeared instead of "somewhat" originally, did it not, before an erasure was made? Didn't it read originally "Respiration is flatter, moderately frequent"?

A. It still says so: "somewhat frequent; moderately frequent." I wrote that twice.

Q. Well, now, how does that sentence read?

A. "Respiration somewhat flatter, moderately frequent; respiration 25 per minute."

Q. Did the word "is", the character for the word "is", appear in that sentence before a change was made?

A. Which word?

Q. "Is"—"i–s".

A. No.

Q. Can't you clearly see in that sentence that the word "is" has been erased and in its place the word "somewhat" has been written, the character "somewhat"?

A. No.

Q. You can't see that. Did you look at it through the glass, Doctor?

A. In shorthand I write the word "is"—

Q. Now, later in this same sentence, Dr. Beiglboeck, after the word "flatter", didn't the word "hardly" appear originally in place of the word "moderately"? The word "hardly" was erased and replaced by "moderately" and then crossed out twice.

A. Here it said "troublesome".

Q. It says, "respiration flatter". It could say "hardly frequent" before the changes, couldn't it?

A. "Hardly moderately" it says here. That means: "Hardly moderately frequent".

Q. Has the character been changed at all?

A. I said already originally it read "troublesome".

Q. Have any erasures been made in that sentence?

A. It was written over.

Q. And then crossed out?

A. Yes.

Q. What word was written over? Is that word there that is written over, that is now legible, the word "moderately" or is that the word "hardly"?

A. It didn't read "hardly". It read: "troublesome".

Q. Well, which character said "troublesome", the one that is legible now or the one that has been written over?

A. It is legible; it was "troublesome".

Q. Well now, in the sentence which starts out in the eighth paragraph with the words: "Heartbeats very low, poorly audible," in that sentence has a character been erased and another one written over? Has the character "scarcely" been erased and replaced by "poorly"? I believe the marks of the original symbol for "scarcely" can still be clearly distinguished, can they not?

A. Yes, that is correct.

Q. Who made these changes, Doctor? Did you make them yourself?

A. Yes, I did.

Q. When did you make them?

A. I am no longer able to tell you exactly when I made them.

Q. Did you make them at Dachau?

A. No.

Q. Did you make them in Nuernberg?

A. Yes.

Q. Did you erase these shorthand characters that appear on the fourth line here in Nuernberg?

A. Yes, I did that too.

* * * * * * *

Q. Now, Doctor, you have had the opportunity to think over during the course of last evening your examination yesterday, and you have told this Tribunal that these stenographic notes were altered by yourself here in Nuernberg; are you prepared to tell this Tribunal now just why it became necessary for you to alter these stenographic notes?

A. I ask permission to be allowed to make the following explanation. I changed these notes before these sheets were handed in, that is, after they had been returned from Professor Vollhardt. I only made some changes in these stenographic notes, and then I told my defense counsel, whom I had not informed about this—this I want to emphasize—I said to him we should withdraw the weight chart, because I was immediately sorry that I had changed something. I originally intended to submit the weight charts of these persons, because I believe from the changed weights alone one can see on the whole how this experiment developed. And then, when I had committed this thoughtless action, my conscience immediately bothered me, and I told my defense counsel that I should not submit it. But I want to state that I did not make any changes in the rest of the report on the course of the experiments; that in the urine amounts, as well as in the temperatures, and especially in the case of the weights, they are definitely the original values, as also in the case of the blood

pressure. So in what you see here, on the front pages of the chart, nothing has been changed since these charts arrived here.

Q. Could you tell us just what was your reason for changing some of the stenographic notes?

A. Because a person who does not know the condition of thirst would receive a stronger impression of the condition from the description as it was here than the actual condition really was.

Q. Do you have anything further to say about those alterations, Doctor? You may at this time explain to the Tribunal anything else in connection with those alterations if you wish.

A. Well, I want to state again that I am very sorry that I did it. As I said, I only intended to submit the charts to show the weights, and not because of the other results of the medical examinations, because I am of the opinion that from the weight charts one can definitely recognize, first, how much weight the experimental subject lost; secondly, they reveal unequivocally on which days water was drunk; thirdly, they reveal clearly that immediately after the conclusion of the experiment there was a gain in weight in the case of all the experimental subjects; and, fourthly, one sees that when the persons were discharged in most cases they had again reached their original weight.

JUDGE SEBRING: Well, Doctor, how do you explain the fact that names have been erased from many of these charts?

DEFENDANT BEIGLBOECK: This erasing of names must have been done before. I did not do that here. I did not change anything on the front pages of these charts. It is possible that this already happened in Dachau. I can't tell you that. It is possible that I erased them later on in Tarvis. I did not erase them here.

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EXTRACTS FROM THE TESTIMONY OF DEFENSE EXPERT WITNESS DR. FRANZ VOLLHARDT*

DIRECT EXAMINATION

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DR. MARX: Please, would you briefly tell the Tribunal what your scientific activities have been and in what special field you have taken a particularly great interest, and since when?

WITNESS VOLLHARDT: I am Professor of Internal Medicine at Frankfurt and predominantly I have dealt with the questions of circulation, metabolism, blood pressure, and kidney diseases.

Q. Which are the German universities where you have been a lecturer?

*Complete testimony is recorded in mimeographed transcript, 3 June 1947, pp. 8400–8493.

A. Halle and Frankfurt.

Q. Are you an author of scientific works regarding this special field of activity?

A. Yes.

Q. Have they been circulated and translated in foreign countries and in foreign languages?

A. Yes, they have been translated into Russian, behind my back.

Q. Considering the facts you have just stated, it would be right to say that you have had honors allotted to you in this country and abroad; so would you please tell the Tribunal what types of decoration you have received abroad?

A. I really have to?

Q. Which foreign academies and foreign societies have you been a member of? Professor, I really want you to answer my questions because my questions pursue certain purposes.

A. I am Honorary Doctor of the Sorbonne, Paris, of Goettingen and Freiburg; and, as far as societies are concerned, there are a lot of them, Medical Society at Edinburgh, at Geneva, at Luxembourg. I am an Honorary Member of the University at Santiago, and so on and so forth.

Q. Thank you very much. Then I would be interested to hear from you whether you had connections with the NSDAP and what sort of connections they were and whether the Party persecuted you in any way. Perhaps you might answer the last question first.

A. When I was lecturing in Spanish in South America, and when I was giving a lecture in Cordoba, Argentina, before a medical congress, I received a telegram to the effect that I had been relieved from my office and the reason given was lack of anti-Semitic attitude.

Q. When was that?

A. 1938.

Q. And since when have you been reinstated and active again?

A. Since 1945.

Q. As a full professor?

A. Yes, as full professor for internal medicine at the University of Frankfurt.

Q. Now, Professor, a few questions regarding your own research work. You have dealt particularly with hunger and thirst treatment in the case of kidney diseases. Is that correct?

A. Yes.

Q. So that you have personal medical and scientific experience regarding the observation of human beings when they undergo hunger and thirst treatment?

A. Yes.

DR. MARX: Mr. President, before continuing with the examination of this expert witness, I should like to permit myself to make a sug-

gestion. There are two types of possibilities for the examination of Professor Vollhardt regarding questions which interest us here. One possibility, the one which I myself consider the correct one, is that Professor Vollhardt should give us a continuous expert opinion regarding the entire complex of questions which are of interest here, and that at the end I would then permit myself to put a few concluding questions to the expert here as, of course, any defense counsel and prosecutor is entitled to do, too. The other possibility would be that I put a number of individual questions to the expert which would deal with the subject chronologically and technically from a medical point of view. But, that would distort the context and would not give as clear a picture of the situation as would the first possibility. I should like therefore, Mr. President, for you to make a decision whether the expert is to give an opinion in the form of a lecture first.

PRESIDING JUDGE BEALS: If counsel would propound to the witness a hypothetical question covering the basic facts which here are at issue, and if the witness would answer that hypothetical question without further question from counsel and make his response brief and to the point, and without enlarging too much upon the fact that salt water is not fit to drink and is injurious, which the Tribunal very well knows, we might proceed as suggested by counsel. The hypothetical question should cover the facts here at issue, that experiments were tried upon a group of people, a control group, a noncontrol group, and others, then the witness may answer that question without further interruption by counsel if his answer is, as I said, brief and not enlarging too much on generalities.

DR. MARX: Very well, Mr. President.

Q. Now, Professor, have you sufficient insight into the planning and carrying out of the so-called sea-water experiments to give an expert opinion on that subject?

WITNESS VOLLHARDT: Yes.

Q. What documentary evidence did you have?

A. I had the original records prepared by Beiglboeck.

Q. I shall first of all deal with the character and type of the experiments. Are there differences between the character of these sea-water experiments and experiments with artificial infection with malaria and cholera and if there are differences, what are they?

A. You can't compare the two at all, because in the case of the sea-water experiments you have things so perfectly under control and can interrupt so instantaneously, and because the experiments take such a short time that the danger of injury could be excluded with absolute certainty. In the case of artificial infection you cannot do that.

Q. You are saying that in the case of sea-water experiments, providing they are interrupted in time, danger to health and body can be avoided with certainty or bordering on certainty.

A. Not the latter. I said with absolute certainty.

Q. I shall now come to the planning of these experiments. I suppose you know of the meeting of 25 May 1944, which was decisive for the planning of the experiments. Did the presence of Professors Eppinger and Heubner guarantee the purely scientific and medically proper treatment of the problem?

A. Undoubtedly it did. Professor Heubner is a leading scientist and an extremely critical person, and Professor Eppinger was one of the leading clinicians in the world and a most outstanding expert, and I assume both of these gentlemen had reasons for allowing these experiments to be carried out, presumably in order to strengthen the medical men, vis-a-vis, the technicians. Secondly, Eppinger's idea apparently was that under such stringent experimental conditions, the kidney would suffer to an unusual degree and that Berkatit, which contains vitamins, might assist the work of the kidney.

Q. Professor, what is your opinion about the individual experimental groups?

A. I think that scientifically speaking the planning was excellent and I have no objection to the entire plan. It was good to add a hunger-and-thirst group because we know by experience that thirst can be borne less well than hunger, and if people are suffering from hunger and thirst too, they do not suffer from hunger, but do suffer from thirst; and that resembles what shipwrecked persons would be subjected to because they only suffer from thirst. It was excellent that Wofatit was to be introduced into the experiments too, although it was expected from the beginning that this wonderful discovery would show its value. It turned out that groups given sea water treated according to the Schaefer method reacted similarly to a group that was subjected to a reasonable hunger treatment and did not suffer any great discomfort. In the hunger treatment of 12, or, we should say 8 days, because the people still ate during the first 4 days, that is a minor affair, and we carry that out innumerable times for medical reasons. There exists a sanitarium where people are made to go without food for 4 weeks, and as long as they get water in the shape of fruit juice, they still carry on well and often with enthusiasm. Group 2 was Schaefer's group, groups 3 and 4 were the groups that received 500 cc. of sea water, once without and once with Wofatit. Group 3 was the one which drank 1,000 cc. of sea water. That one could only use volunteers for this group is an obvious fact, since the cooperation of the experimental subject is indispensable; without his good will such an experimental arrangement is impossible. That sufficient volunteers could be found for a case was a matter of course, since a period of 10 days of excellent food before and after the experiment was before them, and since one could assure them with

the best of confidence that there would not and could not be any danger.

Q. We will come to that, Professor. You have just started to speak about food, nourishment. What is your opinion about the food before, during, and after the actual experiments?

A. Well, before the experiments it was splendid. During the experiments it was meager, corresponding to that of shipwrecked persons and afterwards quite excellent. In my opinion during such brief experiments nourishment doesn't play any part.

MR. HARDY: May it please the Tribunal, might I inquire whether the witness is now testifying to facts as he has ascertained them from studying graphs and charts made by Professor Beiglboeck or is he testifying from hearsay that food was given to these inmates, or what is the basis of his knowledge that he is eliciting here?

A. I was giving my testimony based on the records which I have studied.

MR. HARDY: Thank you.

A. But I don't attach any importance to the meager food served during the experiments because that is an insignificant point which as I have said we have allotted to others many times.

PRESIDING JUDGE BEALS: Witness, when you referred to this examination of the records, state briefly just what records you examined.

A. The original records.

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DR. MARX: Professor, how do you judge the individual examinations carried out by Professor Beiglboeck? Were they adequate for the solution of the practical question whether Berkatit was sufficiently useful and preferable to thirst treatment, and was it sufficient to judge the daily condition of the experimental subjects so that the right time to interrupt the experiments could be ascertained?

Did you get my question?

A. Yes. I got it. I thought that the arrangement of these experiments was splendid from the scientific point of view, and Beiglboeck apparently devoted himself with tremendous industry and great responsibility to carrying out of these experiments which he had been ordered to do.

Q. Would it be right to say that a personality such as Beiglboeck, as a professor of internal medicine and chief medical officer at a clinic for many years on the basis of daily examinations and through his personal consideration and examination of the experimental subject, would be in a position to recognize any threat to the health of the person before such a threat could actually become serious?

A. That was a matter of course. Beiglboeck is an excellent internal medical man and the great care with which he carried out these experiments shows that he was fully conscious of his responsibility.

Only, it's hard to imagine that, during such brief experiments, serious damage could have occurred at all.

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Q. Professor, a little earlier you briefly dealt with the question of starving, of hunger or of thirst for the purpose of treatment, and I now want to ask you whether the administration of hunger and thirst cures of several days is a medically recognized fact, and also how long would you consider that hunger and thirst with complete refusal of food and liquid could take place without putting someone's health in jeopardy?

A. It depends who it is. Initially, I recommended hunger and thirst treatment in the case of acute inflammation of the kidneys, but there people have a great deal of water in their system and the water is absorbed during such a cure. Astonishing as it may seem, a cure is effected very rapidly. In such cases, three, five, seven, and even more days of hunger are employed. In other cases, where no water surplus is in existence, we would only apply 6 days of hunger treatment. During the time when I had to be interested in these particular experiments, there were four women in my clinic, all of whom were there because of high blood pressure. They were aged 50, 51, 53, and 63 years. One had a blood pressure of 210/100, and 6 days later it had been reduced to 170/100. The third had a blood pressure of 280/160 and 6 days later it dropped to 180/100. The loss of weight amounted to 3 or 4 kilograms and the patients naturally, during those days, suffered from thirst and felt weak at the end of the sixth day, but they were so happy about the improved condition that they considered the unpleasantness of the recent days as being worth forgetting.

Q. Is it correct that when water is withdrawn, nourishment should also be withdrawn?

A. It's easier to suffer thirst when you are also hungry because the supply of nourishment makes claims upon the kidneys and, if you exclude salt in the nourishment, the water loses further humidity. Thus, appetite disappears when you are thirsty. Therefore, it is definitely better to be hungry and thirsty simultaneously.

Q. Professor, is it right to observe the individual doses in order to prevent diarrhea, and, if individual quantities of less than 300 cc. are admitted, can you prevent diarrhea?

A. In the case of sea and bitter water you only suffer from diarrhea if you drink a large quantity at once. If you distribute it over a day you suffer from constipation.

Q. Yes, but you didn't quite answer my question. I inquired about the individual doses.

A. Yes, well, I'm trying to say that if you spread it out over a day, giving smaller individual doses instead of giving it all at once, then there isn't any danger of diarrhea.

Q. Can you describe sea water as poisonous at all?

A. Absolutely not. There is a trend towards treatment with sea water which is increasing, and people drink half a liter of sea water every day for weeks. There can't be any question of any poisonous quality. In fact, people say they feel splendid. The only difference is that in the case of such cures fresh water is administered, too, in the manner of tea, coffee, and soup, so that the dehydrating effect of the sea water is counteracted.

Q. Professor, I wonder if you would speak a little more slowly and make a pause after individual answers in order to enable the interpreters to follow.

Has there been an experiment during which a dose of 500 to 1,000 cc. of sea water daily was taken and is it to be described as dangerous, providing the experiment is discontinued as soon as there is a threat of danger to health?

A. There can't be any question of there being any danger to health during the first few days. The only question is, how long can the body stand up to this continued deprivation of humidity? Sea water has a three-percent salt water content. Generally speaking, at least so far, we have assumed that the kidneys cannot deal with such a salt concentration. This means that salt will remain in the system, collecting water from the tissues. In the beginning, this is of no importance, but after 6 or 7 or 8 days, this becomes unpleasant and it is to be expected that after the twelfth day there is some danger. There have been cases of sea rescue when even 17 or more days afterwards recovery was achieved, but I would say that I would never dare to continue such an experiment beyond the twelfth day, and in this case with which we are concerned, all experiments were discontinued after the sixth day, so that danger to health during that period was out of the question.

Q. Could the aim of these experiments have been achieved with a semipermeable membrane?

A. I don't understand how one can imagine this. What we are concerned with is the question of how long the human body can survive without water and under the excess quantity of salt. Now, that is subject to the water content of the body and it depends first of all, upon whether water is only used by the intermediary tissues or whether the cell liquid too is being used up. In the latter case, there is a danger which becomes apparent through excess potassium quantities, and this was also continuously observed and checked during such experiments, and there were no excess potassium quantities such as can be expected after 6 days.

Q. Nor would it be right to say that these experiments were not planned scientifically and medically, is that correct?

A. Absolutely not.

Q. Could they have been planned differently?

A. I couldn't imagine how.

Q. Were these experiments in the interests of active warfare, or in the interests of the care of shipwrecked sailors or soldiers?

A. The latter.

Q. In other words, for aviators and sailors who were shipwrecked or might be shipwrecked?

A. Towards the end of the war there was an increase in the number of pilots shot down as well as of shipwrecked personnel, and it was, therefore, the duty of the hygiene department concerned to consider the question of how one could best deal with such cases of shipwrecked personnel; that was the reason for this conference. Previously Schaefer, as we heard yesterday, had recommended that no liquid should be taken. When, together with I. G. Farben, he succeeded in eliminating salt and bitter salt from sea water through Wofatit, the problem was really solved scientifically. There were, however, considerable technical difficulties, and it isn't exactly simple to equip each flier with so much Wofatit in addition to everything else he has to carry in order to protect him against the danger of shipwreck. That is no doubt why Eppinger and Heubner were in favor of the experiment, and it was unfortunate that Mr. Berka appeared with Berkatit at the same time, and impressed the technicians because his method was more simple and cheaper.

Q. Professor, was there any reason to expect symptoms of injury which might appear later than 10 days after the end of the experiment?

A. It was entirely out of the question, even after the seventh day. Later injury is out of the question, because the duration of the experiments is too short.

Q. To what do you attribute the loss of weight during such experiments?

A. That is almost entirely the loss of water. As I have already told you, the excess salt supply in the body deprived the body of water. The body must have a supply of water if it is to supply salt. In other words, if the body is not receiving any other water than sea water, an attack on the water held by the body must take place, and therefore loss of weight is bound to occur which, however, can be made up very quickly.

Q. What would you say was to be expected in the way of the loss of substance of the body and how much loss of water?

A. I would say the bulk is the loss of water, but to split this up is something I consider impossible to do with certainty. You might possibly compare just how much was lost during the time applied by Schaefer when there was considerable hunger and how much was lost in the case of Berka.

Q. Does the speed with which the loss of water takes place play an important part?

A. Yes, of course, a tremendous part. The colored nostras is a well-known example, during which disease the most tremendous loss of water and salt takes place during 24 hours. I knew a case where 10 liters of water and 150 grams of salt had to be added intravenously through the veins, the skin, and through the stomach in order to save the life of a person suffering from such an acute loss of water. If, on the other hand, this is spread out over a period of days and if you do not have to expect such a dangerous loss of salt, then the body can stand up to it for a much longer period. I might perhaps add that the loss of salt is just as dangerous as excess quantities of salt, and also in the event of the loss of salt which is always connected with loss of water, considerable losses of weight are suffered. It is well known that an expedition on the mountain Monte Rose lost 5 kilograms of salt and water in weight, and that the weight could not be replaced in spite of the addition of water when salt was also added.

Q. Professor, according to the documents at your disposal were these experiments sufficiently well prepared?

A. It was my impression that they were extremely well prepared, and I was particularly impressed by the fact that Beiglboeck had sufficiently examined the participants carefully and had considered the use of three of them to be unsuitable since he found a defect of the lungs.

Q. I also want to deal with such preparations—

Mr. McHaney: I do not think by any stretch of the imagination this witness can testify from the records that Beiglboeck conducted an examination or rejected three experimental subjects. In my opinion it does not appear from the records, and he can only testify what Beiglboeck told him. Unless he can say it does appear in the records, I think it should be stricken.

Presiding Judge Beals: Counsel has an opportunity of cross-examining the witness at the close of his testimony.

Dr. Marx: Professor, would you not say that regulations for these experiments also mean that certain experiments, such as experiments on one's self and animal experiments, printed regulations, if you like, must have been in existence or was that true of this case?

A. Yes, a report from Beiglboeck about an experiment carried out upon himself is in existence which describes most efficiently the condition in which he found himself during a sea-water experiment, and this description tallies to the highest possible degree with what my volunteers who submitted themselves to these experiments described. I might deal with that later.

Q. What opinion do you have regarding the experiments which were carried out by Sirany in Vienna?

A. There appeared to me to be a lack of critical attitude. I think Schaefer had the same impression yesterday.

Q. Are symptoms recognizable regarding the planning of these experiments which would go beyond the absolutely essential practical purposes and which would lead to considerable pains or painful feelings or might have led to that?

A. Of course it isn't fun to be thirsty, and that is the major complaint in these cases. These people are increasingly thirsty, and they are disappointed to find that drinking sea water doesn't decrease but increases their thirst, and towards the end of the experiments there are disturbances of the muscles, and the temper doesn't exactly improve. It is the same in the salt-water experiments where there are cramps of the calf because of the lack of water, but the characteristics of that are that these symptoms disappear instantaneously at the very moment when the first glass of water is drunk.

Q. Would you consider it possible that disturbances of the nerve end might appear? Temperature?

A. Temperature doesn't happen at all, and I can't imagine there being disturbances of the nervous system at all.

Q. How about fits?

A. In the case of insane people there may appear insane fits, maybe, but not in the case of normal human beings.

Q. If you yourself had been placed in this position, and considering your attitude toward medical ethics, would you have objected to carrying out the same type of experiment as was carried out here, if healthy, strong, young men had been at your disposal?

A. I actually did it. Since I was interested in connection with sea-water experiments, I called for volunteers among my young doctors, and five of them volunteered, among them my youngest son, and they drank synthetic sea water, having the exact salt content of real sea water, drinking up to 500 cc.; they got a little food, because they were to continue on duty during the experiment. The loss of weight varied and was around one kilogram a day. At the end of the experiment, my son was pretty thin, but after having a cup of tea was fine. Two days later he had regained his lost weight fully. All five participants described the experiment in the same way as Beiglboeck described the experiment carried out on himself. Four of these subjects interrupted the experiment after 5 days. One carried it out for 6 days, and apart from continuous thirst, he had no complaints. Any serious disturbance or damage is out of the question, and the extraordinary fact was the speed with which all symptoms of thirst disappeared after water had been taken.

Q. Now, Professor, the experiments we were talking about; did they have a practical valuable aim and did they show a corresponding result?

A. Yes, that is correct. For instance an important observation was made which Eppinger had expected; he wanted to see if the kidneys did concentrate salt under such extreme conditions to an even higher extent than one expected previously. One thought that it would be something like 2.0 percent but 2.6 or 2.7 percent and record figures of 3.0, 3.5, 3.6, and 4 percent are shown, so that the fortunate man who is in a position to concentrate 3.6 percent or 4 percent of salt would be able to live on sea water for quite a long period.

PRESIDING JUDGE BEALS: Witness, after a question is propounded to you by your counsel, would you pause a moment before giving your answer so that the question may be translated and conveyed and when you begin to make your answer, would you speak a little more slowly?

A. Finally, one unsuspected fact was shown which may be connected with this, and that is that the drinking of small quantities of sea water up to 500 cc. given over a lengthy period turned out to be better than unalleviated thirst.

DR. MARX: What do you think of Wofatit generally?

A. It is a wonderful thing.

Q. Is it correct to say that sea water really assumes the character of drinking water through it?

A. Yes, the only difficulty would appear to be to obtain the drug in sufficiently large quantities for a man who is shipwrecked and did not have his luggage; but it is a wonderful discovery.

Q. So, you think that the result of these experiments is not only of importance in wartime, but is also of importance for the problems of seafaring nations?

A. Quite right, it is a wonderful thing for all sea-faring nations.

Q. So that both the experiments with Wofatit, as well as the experiments made regarding the symptoms when such a drink was not available, were important to show, for instance, the result of the consumption of sea water in certain given doses.

A. That is quite correct.

Q. That was only discovered by these experiments?

A. Quite correct.

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CROSS-EXAMINATION

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MR. HARDY: On what precisely is your testimony with respect to the experiments by Beiglboeck based?

WITNESS VOLLHARDT: On the records and the descriptions that Beiglboeck gave of the experiments.

Q. Precisely what records have you seen of these experiments?

A. The records that the defense counsel had in his hand yesterday or today.

Q. Doctor, I will have passed up to you a set of records which are numbered from 1 to 44 in red pencil, and I ask you, did you have those records before you and did you make a study of them?

A. Yes, I had these records, and I asked one of my collaborators who took part in these experiments to read through these records and to make excerpts from them. He happens to be here also.

Q. Who was this collaborator?

A. One of my assistants by the name of Werner. He is in the audience at the moment.

Q. You said something about his having participated in experiments; you don't mean the Dachau experiments, do you?

A. No. In experiments that I carried out with my students.

Q. Did you personally examine these records at all?

A. I saw them, but I didn't study every one of them. I left that up to the young man.

Q. And what did the young man do?

A. He gave me a very exhaustive report on them.

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Q. Your testimony, then, is based upon a summary made by your assistant, is that correct?

A. Yes. That is so.

Q. Now what other records were made available to you upon which your testimony is based here?

A. The charts that were filled out in pencil with figures.

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Q. Now, were there any other records that you got which we have not heard about, on which your testimony here is based?

A. I cannot say at the moment. I would have to confer with—

Q. I believe that the defense had reports by Becker-Freyseng and by Beiglboeck?

A. These were reports on the whole development of the question.

Q. Well, Professor, what sort of reports were they? We have not seen them, you know, and we would like to know on what you are basing your opinion before this Tribunal.

A. Descriptions of the whole course that the matter took regarding the conference, how the decision was reached, how the experiments were planned, and then Beiglboeck's report on his own experiments on himself, which is a very careful description and corresponds exactly to what my subjects experienced when they carried out experiments on themselves.

Q. Did you read and study these experiments carried out by Becker-Freyseng and Beiglboeck?

A. Of course.

Q. And they influenced your testimony before this Tribunal; you relied on them in making your testimony here?

A. From these I had an idea of the situation as a whole; in order to form my own opinion I performed experiments myself.

Q. And your testimony here is based in part upon the reports made by Becker-Freyseng and Beiglboeck; that is true, isn't it, Doctor?

A. Yes.

Q. And these records made by Becker-Freyseng and Beiglboeck were not contemporaneous records of these experiments, were they, Professor?

A. I don't believe so.

Q. They were, rather, essays or reports which they have written up since their arrest and incarceration; isn't that true, Professor?

A. That is very possible.

Q. How old a man is this assistant of yours, Professor?

A. Twenty-six.

Q. Twenty-six years old?

A. Twenty-seven.

Q. Twenty-seven years old; has he studied medicine?

A. Of course.

Q. Where did he study?

A. Heidelberg.

Q. Herr Professor, I will ask you to testify from your own memory, and if the defense counsel wishes to put your assistant on the stand, they are privileged to do so; but I am interested primarily in knowing what you know about your assistant. Now, you did not know he studied at Heidelberg until he told you just now?

A. I have 40 to 50 young men at the clinic, and it is impossible for me to know of each one where he studied, but I made his acquaintance at the clinic. He is a very industrious and intelligent person and for that reason I asked him to do this work and take some work off my shoulders.

Q. How long has he been working with you?

A. More than a year.

Q. Working with you about a year. and since that time you have conducted these sea-water experiments yourself?

A. We carried them out shortly before Shrove Tuesday.

Q. Of 1947?

A. Yes, this year.

Q. How did you happen to carry out these experiments; were you requested to do so by defense counsel?

A. No. I had been asked very often to interest myself in this matter, and I was interested to see for myself the effect of sea water on the experimental subjects. This was interesting to me because I already had considerable experience in the field of hunger and thirst.

Q. Were you approached at all with respect to this case before the time you started these sea-water experiments?

A. Yes, that is why I started to interest myself in the matter, because I was asked to appear here as a witness, but I carried out these experiments entirely spontaneously, without outside interference and for my own interest.

Q. But the fact that you were approached to come here and testify influenced your decision to carry out these experiments, is that right?

A. Of course, of course.

Q. And did you make any effort to have these experiments coincide with the conditions which you were told existed in the Dachau experiments?

A. Yes, we made only one distinction in this, namely, that the experimental subjects received roughly 1,600 calories a day, because they were not to interrupt their work. To be sure, as the experiment went on they ate less and less of the 1,600 calories, because thirst made them lose their appetite.

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Q. Now how many experimental subjects did you use in your experiments?

A. Five of them.

Q. And you say that they were volunteers, your assistants, is that right?

A. Yes, they were all doctors, volunteers, and, as I said, also included my youngest son who also happens to be here.

Q. And precisely what happened during these experiments?

A. These persons were assembled in one room, received the same amount of salt each and more or less continued their work. They drank 500 cc. of sea water, and one of them drank 1,000, and they stuck pretty closely to the provisions set down for the experiment.

Q. You say four of them drank 500 cc. of sea water per day and the fifth one drank 1,000 cubic centimeters of sea water?

A. The fifth drank on one day, on the last day I think, an additional 500 cc. because he was very thirsty.

Q. When did you start the experiments?

A. On the Monday before the beginning of Lent.

Q. And how long did they run?

A. As I said, four broke off the experiment after four days because of the carnival season and one of them stuck it out for six.

Q. Well, you spoke of four days, do you know how many hours they were under the experiments?

A. Five times twenty-four in general and the other one six times twenty-four.

Q. Well, I misunderstood you, or else your testimony has changed;

you said four of the students stayed on the experiments for four days and one went on for six days. Is that right?

A. No, four did it for five days, four broke off at the end of the fifth day, and one stayed until the end of the sixth day.

Q. And you are prepared to testify it was five times twenty-four, is that right, 60 hours [sic]?

A. I would have to check on that for sure in the record, whether it was five times twenty-four or four times twenty-four, or sixteen or eighteen. Those things didn't seem very important to me. I was interested primarily in seeing how greatly the persons suffered under the experiments, but the man who did it for six days did do it for six times twenty-four hours. However, I don't want to make a statement for certain under oath regarding the number of hours.

Q. Well this little experiment conducted by you, as I take it, had as its purpose to find out how much a man suffers, is that right?

A. Yes.

Q. You didn't know that before you conducted this experiment, is that right?

A. I assumed that they would be very thirsty, but I wanted to see what the subjective sensations or feelings of the experimental subjects were. What was most important to me was to know whether these experiments could be characterized as cruel or inhumane or brutal, and if they were experiments which led to a pretty strong sense of discomfort, namely, thirst, but did not do any damage to health, that is what I wanted to know.

Q. And your testimony before this Tribunal is based upon those experiments; is that right?

A. No, on both, of course, both on those carried out by Beiglboeck and on my own.

Q. Well, your judgment was also influenced by what Beiglboeck told you about how much the experimental subjects suffered, is that right?

A. Beiglboeck drew up his own report on his own experiment on himself and a general report on whatever complaints the subjects uttered.

Q. What is the experiment that Beiglboeck conducted by himself? You mean he has been undergoing an experiment back in the prison?

A. No, before the experiments began, he carried out a sea-water experiment on himself.

Q. Where did these experimental subjects of yours stay during this experiment? I seem to recall you said they continued their work or something of that sort.

A. They all stayed in one room where they ate and slept, and this was done to make the conduct of the experiment easier, as they were to receive special rations.

Q. Well, now all five experimental subjects were in one room during the whole course of the experiment, is that right?

A. Yes.

Q. And what did they do?

A. They went from this room to wherever they had to work, but they returned to the room for sleeping and eating.

Q. Well, Doctor, we are having great difficulty in really getting a clear picture about how this experiment went on. Now you mean to say they carried on their work about the clinic? They didn't stay in this room the whole time, is that right?

A. Yes.

Q. They actually only ate in the room and slept in the room; is that right?

A. That is correct.

Q. Did they leave the clinic at all?

A. I believe that they did not during those days.

Q. But you don't know?

A. I can't swear to it.

Q. You can't swear that they didn't go to a local cinema during the course of the experiments for example?

A. No, I can't swear to that. I just don't know.

Q. In other words, they had their normal daily life available to them during these experiments?

A. They carried on their daily work and in this case it is perfectly certain that they did not drink any fresh water. They knew perfectly well what the point of the experiment was.

Q. How much food did they get, again?

A. 1,600 calories.

Q. And do you know what the food was?

A. Yes, that is also in the record. It was meat, fat, and what not, but I can't tell you that from memory. However, I could give you the record in writing.

Q. In what record? Have we any record on these experiments?

A. Yes . There was a record.

Q. Now, they got absolutely no fresh water during the course of the experiments, is that right?

A. No.

Q. Did they get any other water or fluid other than salt water?

A. No, that was the whole purpose, that they should receive no other fluid and that is why they lost their appetite later.

Q. They got no milk and no fruit juices?

A. No, no, that would have violated the whole experiment, and then they would not have lost so much weight.

Q. I can appreciate that, Professor. Where did you get the sea water that these experimental subjects drank?

A. We manufactured it carefully in the chemical laboratory according to a chemical analysis of sea water that can be found in many text books. I have a chemist who was in charge of the laboratory and he made this sea water according to the formula. We couldn't get any natural sea water for this experiment.

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Q. Now, you didn't keep any of your experimental subjects without any water whatever, did you?

A. Five hundred cc. of sea water was the liquid they received.

Q. Well, were there not some experimental subjects at Dachau who did not get any water at all, sea water or otherwise?

A. Yes, the first group fasted and thirsted. I have already spoken about that and said that thirst can more easily be tolerated if one is fasting at the same time, so that the kidney has as little as possible to do; thus the body is able to retain more water.

Q. But you can't testify to the Tribunal about what pain and suffering those experimental subjects were subjected to, can you? You didn't run any similar experiments yourself?

A. I do not understand you. I carried out these experiments to know what sort of suffering the experimental subjects went through.

Q. But you didn't carry out one where a man fasted for 5 or 6 days without either food or water. They did carry out such an experiment in Dachau. So you have no basis to testify about pain and suffering to which that group of experimental subjects were subjected, do you?

A. I mentioned that at the same time I was having four women fast and thirst who had come to the clinic with very high blood pressure and for six whole days these women fasted and thirsted. This so improved their condition that they consequently forgot the unpleasantness involved in the fasting and thirsting. I also mentioned among them one woman who weighed only 51.7 kilo, and who lost 3. However, her blood pressure went down from 245/125 to 185/100. I carried out such experiments almost daily in the clinic. That is done by the hundred. And, in the case of persons with kidney disease, that is the accepted method so that during the war people from the fronts went through thousands of such hunger and thirst cures. I didn't have to have any control experiment in this; that was furnished daily by the clinic.

Q. And these women went without food and water for 4 days?

A. Six days without food and water.

Q. And what was the result on them aside from their blood pressure? Did they suffer much pain?

A. There is no question of pain in such cases. They simply felt thirst. Strangely enough they do not complain of being hungry. The body water that still remains is enough to keep the body metabolism supplied with the necessary chemicals. However, there is a lack of

sodium nitrate in the body which, however, can be overcome by giving sodium nitrate. They never complain about hunger, only thirst. Sometimes they complain of a feeling of weakness but fasting for 6 days is nothing very special. As I said, some people carry out hunger cures for 4 weeks. To be sure, they drink fruit juice during such a long cure. We also make use of it for therapeutic purposes. They will receive fruit juice but that is by no means so unpleasant as an 8-day long hunger and thirst cure.

Q. And you gave them no compensation for going without food and water whatever? You gave them no injections of any sort?

A. No, no. My whole purpose is to eliminate from the body all the unnecessary fluids in the blood so that the blood pressure will drop. I gradually bring these people over to a form of nourishment without any salt.

Q. Now you say that four out of five of your experimental subjects broke off on the fifth day?

A. Yes. For external reasons only, not because they could no longer tolerate it. It just happened that four of the men had dates on the 5th day, but the 5th one stayed on until the sixth day and I asked him specifically whether he felt particularly tortured or in pain and he said no. He said that with the first drink of water he took all unpleasantness and discomfort vanished. I observed my son myself. As soon as he drank a cup of tea, he was perfectly all right and 2 days after the experiment he had recovered all the weight he had lost. He had lost roughly one kilo a day.

Q. You say these four men had a date on the 5th. You mean they had an engagement with a young lady?

A. I do not know what details were planned for the carnival celebration. I could simply draw the regrettable conclusion that their interest in the carnival was a little greater than their interest in the experiment. But this does indicate that the experiments did not have a very deleterious effect on them, otherwise they could not have gone to the carnival and enjoyed it.

Q. Well, it might also indicate that they didn't regard the experiments as being very serious and that, even though several men in this dock are quite interested in the results of this particular experiment, your four young assistants didn't regard it as serious enough to refrain from going out on a date. Isn't that about the size of it?

A. I can't deny that. I wasn't too pleased by their behavior.

Q. Were these men informed of the seriousness of this undertaking?

A. No.

Q. And what reason did you advance to them for undergoing the experiments?

A. Of course, I told them, and they knew, that such sea-water experiments were an issue, but I was perfectly convinced that these

experiments could by no means be called inhumane or brutal and consequently we didn't approach the experiments in too tragic a manner. All we wanted to know was how unpleasant such an experiment was.

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EXAMINATION BY THE TRIBUNAL

PRESIDING JUDGE BEALS: Professor, these subjects upon whom you conducted an experiment in your institute were very excellent subjects for such an experiment, were they not?

WITNESS VOLLHARDT: They were characterized by the fact that they were medical men who understood the meaning of the experiment and that I could rely on them. Physically, they certainly were no better-conditioned, according to the photographs at least, than those rather well nourished experimental subjects.

Q. I was not thinking so much of their physical condition, but they were men who were interested in this work, were they not?

A. Yes.

Q. The results of the experiment—each upon himself and upon each of his associates—would be interesting to each one, would it not? Is that not true?

A. I would assume so, yes.

Q. Each one was entirely controlling his own participation in the experiment, was he not?

A. Yes.

Q. If, at any time, any one of the subjects felt that the conditions which he was undergoing in the experiment were becoming too heavy for him, he would have been released from further participation upon his request, would he not?

A. No doubt he would have reported and he would have said, "I want to step out. This is too much for me."

Q. That's what I meant. He would have asked to be released and he would have been immediately released? Well, is it or is it not a fact that a human being will voluntarily undergo hunger, thirst, pain, discomfort, and stand it better when he knows that he is doing it under his own volition with a scientific objective, than a person of equal physical condition will stand such an experiment when, insofar as he is concerned, he has no personal interest whatsoever?

A. No doubt that is correct, and I am perfectly convinced that Professor Eppinger tried everything he could in order to obtain such volunteers. He was most uncomfortable about the fact that these experiments were carried out in Dachau. He would much rather have seen them carried out in Vienna on his own students but, at that time, there weren't any students any more. They had all been called up, and medical officers were very scarce so that there was no question

of obtaining volunteers. Hence, in this very tense and difficult time, no subjects could be found, to carry out such a series of experiments as was planned here, in a hospital or clinic of any kind. It would have been better, more practical and more sensible, by all means, if the experiments had been carried out at that time upon medical students, but, unfortunately, that was impossible.

Q. You prefaced your statement, Doctor, by saying that Dr. Eppinger had this sentiment. How do you know that?

A. Because, during the conference, it was mostly Professor Eppinger who was in favor of these experiments being made and, since Professor Eppinger had earmarked his favorite pupil, Beiglboeck, for the carrying out of these experiments, it is a matter of course that Eppinger would have liked nothing better than that these experiments should be carried out under his own control in Vienna.

Q. You are assuming that Eppinger would have felt as you would have felt under similar circumstances, is that correct?

A. I know that all those who were interested in these experiments were making efforts to find places where these experiments could be carried out in a military hospital on soldiers or convalescent patients or other persons, but, unfortunately, everything turned out to be impossible. You can only imagine the situation if you know how every hospital bed and every doctor was being utilized in this time. That was the final period of the war.

Q. You prefaced this last statement by saying, "I know." Now, how do you know? By any other method than assuming that these gentlemen would have felt as you felt?

A. No. I recollect that I read that in one of the reports, that an attempt had been made to carry out the experiments elsewhere and that one had come across locked doors everywhere. For instance, one had Brunswick in mind, I know that by chance, the Luftwaffe hospital at Brunswick, and that was impossible. Thus, all inquiries had negative answers.

Q. I gathered from your answer to one of my questions a short time ago—I would like to return to that subject—that a person of intelligence will endure more discomfort, pain, and suffering, pursuing a voluntary experiment which he knows he can terminate at any moment than a person, probably of less intelligence, would display upon undergoing an experiment which he could not stop at his own volition. Is that correct?

A. Well, there is no question but that, for those persons in Dachau, the only bait was the good food before and afterwards and the cigarettes that they had been promised. That was not possible in the case of my doctors. They did it because they were interested and, of course, that would have been by far the best solution if it had been possible.

Q. And, insofar as the subjects at Dachau, if any of them, at any

time during the course of the experiments, believed that the pain or discomfort or whatever it might be called, which they were suffering would not be compensated by cigarettes, or other promises which had been made to them, they would be very anxious then to be released from prosecution of that experiment. Is that true?

A. Certainly. That's why quite a number of experimental subjects secretly drank water, because the strict course didn't please them too much.

Q. Well, unlike the experimental subjects in your institute, those subjects would not be particularly interested in the result, would they? They had no scientific interest in the result, did they?

A. No, no. None at all. None whatever.

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8. EPIDEMIC JAUNDICE EXPERIMENTS

a. Introduction

The defendants Karl Brandt, Handloser, Rostock, Schroeder, Gebhardt, Rudolf Brandt, Mrugowsky, Poppendick, Sievers, Rose, and Becker-Freyseng were charged with special responsibility for and participation in criminal conduct involving epidemic jaundice experiments (par. 6 (H) of the indictment). During the trial the prosecution withdrew this charge in the case of Sievers, Rose, and Becker-Freyseng. On this charge only the defendant Karl Brandt was convicted, and the defendants Handloser, Rostock, Schroeder, Gebhardt, Rudolf Brandt, Mrugowsky, and Poppendick were acquitted.

The prosecution's summation of the evidence on the epidemic jaundice experiments is contained in its final briefs against defendants Handloser and Schroeder. Extracts from these briefs are set forth below on pages 494 to 498. A corresponding summation of the evidence by the defense on these experiments has been selected from the final plea for the defendant Handloser. It appears below on pages 499 to 503. This argumentation is followed by selections from the evidence on pages 503 to 508.

b. Selections from the Argumentation of the Prosecution

EXTRACT FROM THE CLOSING BRIEF AGAINST DEFENDANT HANDLOSER

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Epidemic Jaundice

Following the attack on Russia, epidemic jaundice (hepatitis epidemica) became a disease of major proportions for the German Wehrmacht. (*Tr. p. 2707.*) In some units, casualties up to 60 percent were reported from this disease. (*NO–010, Pros. Ex. 187.*) Ac-

cordingly, an intensive effort was made to discover the causes of and vaccinations against epidemic jaundice. Dohmen and Gutzeit of the Army Medical Inspectorate and Haagen of the Medical Service of the Luftwaffe were among the doctors working on this subject.

Dohmen and Gutzeit were attached to the Military Medical Academy and directly subordinated to Schreiber. (*Tr. p. 2752.*) The Military Medical Academy was, of course, subordinated to Handloser as Army Medical Inspector. (*Tr. p. 2740.*) Gutzeit was also consulting internist to Handloser. (*Tr. p. 2700.*) Dohmen was one of the first to isolate a virus which was claimed to be the cause of jaundice. This was accomplished by inoculating animals with germs taken from human beings suffering from the disease. (*Tr. p. 2695.*) However, considerable divergence of opinion still existed as to whether jaundice was caused by bacteria or a virus. (*Tr. p. 3045.*) On 1 June 1943, Grawitz, Reich Physician of the SS, requested Himmler to make concentration camp inmates available for infection by Dohmen with his virus. He stated that cases of death among the experimental subjects were to be anticipated. (*NO–010, Pros. Ex. 187.*) It was not stated whether the deaths were to be brought about for the purpose of performing autopsies (as in the cases of the high-altitude experiments), or whether they were to be expected from the disease itself (as in the cases of the typhus experiments).

Himmler consented to the use of eight Polish Jews, who had been condemned to death in the Auschwitz concentration camp, and to Dohmen's conducting the experiments. (*NO–011, Pros. Ex. 188.*) The experiments were carried out by Dohmen in the Sachsenhausen concentration camp, and according to the affidavit of the defendant Rudolf Brandt, some of the experimental subjects died as a result. (*NO–371, Pros. Ex. 186.*) Even the defense witness Gutzeit, who collaborated closely with Dohmen, admits that Dohmen worked in Sachsenhausen, but stated that this was merely a ruse to avoid turning over the jaundice virus to Grawitz, and in reality no infection experiments were performed. (*Tr. p. 2722.*) Gutzeit did not explain, however, why Dohmen, who was in no way subordinated to Grawitz, should have engaged in such ridiculous scientific "horseplay." (*Tr. p. 2758.*)

In weighing the credibility of the testimony of Gutzeit, consideration should be given to the fact that he was a member of the SS himself and that he was closely associated with Dohmen in his work. (*Tr. p. 2760.*)

In June 1944, a conference of experts was called by Handloser for the purpose of coordinating jaundice research. This conference took place at Breslau and was presided over by Schreiber. (*Tr. p. 7252.*) Handloser, Gutzeit, and Haagen, a consulting hygienist of the Air Fleet, were all present at this conference. (*Tr. p. 2717.*) Schreiber assigned groups of physicians to work together on jaundice problems.

Dohmen, Gutzeit, and Haagen were assigned to one of these groups. (*Tr. p. 2717.*) On 12 June 1944, Haagen himself requested Schreiber to assign Dohmen to work with him. Generalarzt Schreiber at that time was commander of the Military Medical Academy. (*NO–299, Pros. Ex. 190.*) Schreiber complied with this request. (*NO–300, Pros. Ex. 191.*)

On 24 June 1944, Gutzeit wrote to Haagen that he was also requesting Schreiber to assign Dohmen to Haagen. He went on to state that he was making preparations for experiments on human beings and he wanted Haagen to supply him with his virus material. (*NO–124, Pros. Ex. 193.*) Haagen replied to Gutzeit's letter on 27 June 1944 stating that he was glad that Dohmen would be assigned to him as of 15 July. He further stated that he was working with Kalk, Buechner, and Zuckschwert, all officers of the Luftwaffe, on jaundice problems and that he had arranged with Kalk to conduct human experiments with his material. (*NO–125, Pros. Ex. 194.*) On the same date Haagen wrote to his collaborator Kalk, who was attached to the staff of the defendant Schroeder, stating as follows:

"In the enclosure I send you a copy of a letter from Gutzeit and my reply. We must proceed as soon as possible with the experiments on human beings. These experiments, of course, should be carried out at Strasbourg or in its vicinity. Could you in your official position take the necessary steps to obtain the required experimental subjects? I don't know what sort of subjects Gutzeit has at his disposal, whether they are soldiers or other people." (*NO–126, Pros. Ex. 195.*)

The remark about "other people" is an obvious reference to concentration camp inmates, upon whom Haagen had long since been experimenting with virulent typhus virus, while the reference to "Strasbourg or in its vicinity", indicates the concentration camp Natzweiler. (See typhus experiments *supra.*) Herr Kalk and his chief, the defendant Schroeder, were well advised on how to procure concentration camp inmates for medical experiments because only a few weeks before Schroeder himself had requested inmates from Himmler for the sea-water experiments. (*NO–185, Pros. Ex. 134.*)

The record shows that Dohmen did in fact go to Strasbourg to work with Haagen on the direct orders of Schreiber. (*Tr. p. 2752.*) Handloser was advised of this collaboration of Dohmen and Haagen. (*Tr. p. 2757.*)

Still another series of jaundice experiments was planned with which Handloser was connected. On 29 January 1945 Mrugowsky wrote to Grawitz as follows:

"Hauptsturmfuehrer Professor Dr. Dresel, Director of the Hygienic Institute of the University of Leipzig, has cultivated a

virus from persons suffering from hepatitis and succeeded in transplanting it on animals.

"It is necessary to make experiments on human beings in order to determine the fact that this virus is indeed the effective virus hepatitis epidemica. The plenipotentiary for research on epidemics in the Reich Research Council therefore addressed himself to me with the request to carry out the above experiments.

"I am asking you to obtain authorization from the Reich Leader SS to carry out the necessary experiments on 20 suitable prisoners who have hitherto never suffered from hepatitis epidemica, at the typhus experimental station of the concentration camp in Buchenwald." (*NO–1303, Pros. Ex. 467.*)

The plenipotentiary for research on epidemics in the Reich Research Council who requested these experiments on concentration camp inmates was Generalarzt Schreiber, at the same time commander of Lehrgruppe C of the Military Medical Academy under Handloser. (*Tr. p. 5402.*) Schreiber had been designated by Handloser for the very purpose of coordinating jaundice research, and the meeting in Breslau was called to that end.

In view of this evidence outlined above, it can only be concluded that the jaundice experiments were carried out by subordinates of the defendant Handloser with his knowledge and approval.

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EXTRACT FROM THE CLOSING BRIEF AGAINST DEFENDANT SCHROEDER

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EPIDEMIC JAUNDICE EXPERIMENTS

In June 1944 a conference of experts was called for the purpose of coordinating jaundice research. This conference took place at Breslau and was presided over by Schreiber. (*Tr. p. 2752.*) Handloser, Gutzeit, and Haagen were all present at this conference. (*Tr. p. 2717.*) Haagen admitted during cross-examination that experiments on human beings were discussed. That criminal experiments on concentration camp inmates were discussed is clear from the fact that Schreiber in January 1945 personally requested Mrugowsky to make available inmates for hepatitis experiments by Dr. Dresel. (*NO–1303, Pros. Ex. 467.*) Schreiber assigned groups of physicians to work together on jaundice problems. Dohmen, Gutzeit, and Haagen were assigned to one of these groups. (*Tr. p. 2717.*) On 12 June 1944 Haagen himself requested Schreiber to assign Dohmen to work

with him. Generalarzt Schreiber at that time was commander of the Military Medical Academy under Handloser. (*NO–229, Pros. Ex. 190.*) Schreiber complied with this request. (*NO–300, Pros. Ex. 191.*)

On 24 June 1944 Gutzeit wrote to Haagen that he was also requesting Schreiber to assign Dohmen to Haagen. He went on to state that he was making preparations for experiments on human beings and he wanted Haagen to supply him with his virus material. (*NO–124, Pros. Ex. 193.*) Haagen replied to Gutzeit's letter on 27 June 1944 stating that he was glad that Dohmen would be assigned to him as of 15 July. He further stated that he was working with Kalk, Buechner, and Zuckschwert, all officers of the Luftwaffe, on jaundice problems and that he had arranged with Kalk to conduct human experiments with his material. (*NO–125, Pros. Ex. 194.*) On the same date Haagen wrote to his collaborator Kalk, who was a consultant to defendant Schroeder and a specialist on hepatitis (*Tr. p. 3632*), stating as follows:

> "In the enclosure I send you a copy of a letter from Gutzeit and my reply. We must proceed as soon as possible with the experiments on human beings. These experiments, of course, should be carried out at Strasbourg or in its vicinity. Could you in your official position take the necessary steps to obtain the required experimental subjects. I don't know what sort of subjects Gutzeit has at his disposal, whether they are soldiers or other people." (*NO–126, Pros. Ex. 195.*)

The remark about "other people" is an obvious reference to concentration camp inmates, upon whom Haagen had long since been experimenting with virulent typhus virus, while the reference to "Strasbourg or in its vicinity", indicates the concentration camp Natzweiler. The witness Olga Eyer, secretary to Haagen, testified that prisoners were requested for the epidemic jaundice experiments. (*Tr. p. 1759.*) Haagen would have the Tribunal believe that he referred to Freiburg and Heidelberg which are 60 and 100 kilometers respectively from Strasbourg, while Natzweiler was only a few kilometers away. (*Tr. p. 9579.*)

Herr Kalk and his chief, the defendant Schroeder, were well advised on how to procure concentration camp inmates for medical experiments because only a few weeks before Schroeder himself had requested inmates from Himmler for the sea-water experiments. (*NO–185, Pros. Ex. 134.*)

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c. Selection from the Argumentation of the Defense

*EXTRACT FROM THE FINAL PLEA FOR DEFENDANT HANDLOSER**

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Epidemic Jaundice (Hepatitis)

The problem of experiments in the field of hepatitis research consists in finding the most efficient treatment of the disease and identifying the virus in order to evolve a vaccine.

Discussions of this problem were extensive during this trial. The indictment on this point applies only when experiments on human beings, as understood by the prosecution, such as infection with jaundice germs, could have effects detrimental to health. On this the experts, Professors Gutzeit and Rose, have expressed their opinions. Professor Gutzeit, as one of the foremost specialists for problems connected with epidemic jaundice, on the basis of his extensive practical clinical experience and experiments on his own person, has described the effects as follows:

> "As far as I, as clinical physician, can judge, the development of vaccines, and of experiments to gain these vaccines, is harmless. This harmlessness is shown by the fact that spontaneous outbreaks of jaundice are not dangerous in themselves. Like every other vaccine, a potential vaccine which is being developed for or against hepatitis may cause harmless local reactions on the place of vaccination."

Furthermore he said, "it (epidemic jaundice) is a harmless disease" (*German Tr. p. 2761*); "it has no damaging after-effect on the liver." (*German Tr. p. 2763.*) Professor Rose has expressed his expert opinion in the following words: "Hepatitis epidemica as such is not considered a dangerous disease by hygienists." (*German Tr. pp. 5433, 5434.*) Then he continues that naturally, just as in the case of a nasal cold, so in the case of hepatitis, complications may arise as after-effects, "but no one would consider hepatitis as a dangerous disease for that reason." (*German Tr. p. 6454.*) As to the experiments, Professor Rose says:

> "In Germany, experiments with hepatitis virus have been carried out by Eppinger, Vogt, Esser, and Lembel and no incidents occurred. All experiments took place without ill effects. This is, of course, very limited experimental material, but material concerning hundreds of cases which permit a more accurate judgment has been published in England and America. Up to date I have knowledge of about 60 experiments on human beings for hepatitis and no single incident has been reported yet."

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*Final plea is recorded in mimeographed transcript, 14–15 July 1947, pp. 10818–10849.

The prosecuting counsel furnished no proof in this trial that infection experiments with jaundice organisms on unwilling persons took place at all in the concentration camps. Whereas in the case of the other facts the prosecution produced medical records or a witness to prove that such experiments had been carried out, this was not possible with regard to epidemic jaundice. Proof was limited to the presentation of documents which one must admit might have given any layman, or even a doctor who was not a hygienist or a clinical physician, the impression that the experiments in question must have been dangerous. The letter of Dr. Grawitz dated 1 June 1943 to Himmler (*NO–010, Pros. Ex. 187*) contains the sentence, "We must expect deaths."

According to the expert opinions expressed by Rose, Gutzeit, and Hoering this view is incorrect and incomprehensible. The experts exclude in practice all possibility of death. Rose declares (*German Tr. p. 6455*):

> "Grawitz, who had only concerned himself for years with the business of administration, did not have sufficient understanding of the matter," or "that he was cautious to an exaggerated degree * * *."

Professor Gutzeit (*German Tr. p. 2764*) says of Document NO–010, Prosecution Exhibit 187:

> "The only way I can explain it to myself is that Grawitz himself was not sufficiently informed about this jaundice, the course of the disease, and its danger. Certainly Grawitz was no specialist on this matter, this jaundice, and has for a considerable time been out of touch with practical medicine."

Professor Gutzeit gives the mortality figure for jaundice as less than 0.1 percent; finally he declares (*German Tr. p. 2762*) that severe pain and suffering, such as mentioned in the indictment, do not occur when a patient is injected with jaundice organisms. A layman can also understand that over-injection can only produce at the most the disease itself, the effects of which have already been represented as harmless.

As already stated, the prosecution furnished no concrete assertions that the intended experiments were made in Sachsenhausen. Here we are speaking of the time from June 1942. At this time Stabsarzt Dr. Dohmen was allowed to work in the concentration camp at Sachsenhausen in accordance with permission given by Himmler. Professor Gutzeit worked together with Stabsarzt Dr. Dohmen insofar as he conducted the hepatitis research work from the clinical side, while Dr. Dohmen was occupied with basic bacteriological research, in the Robert Koch Institute where he was stationed at the time in question and worked under Professor Gildemeister. Evidence was given by Professor Rose (*German Tr. p. 6468*) and Dr. Lentz. (*Rose 16, Rose Ex. 12.*)

As a result of the mutual exchange of experience which took place, we must assume that Professor Gutzeit was informed about Dohmen's research work in this field. Gutzeit also testified upon oath what Dohmen had reported to him about his activity in Sachsenhausen. According to this, Dohmen was only able to escape pressure from Himmler and Grawitz to leave him his breeding stocks by apparently acceding to the offer that he should conduct experiments in Sachsenhausen, but in actual fact undertaking experiments only on prisoners of concentration camps which could be carried out without any risk of bodily harm or loss of life.

In like manner the prosecution was obliged to furnish proof with regard to the experiments asserted to have been made on concentration camp prisoners in Natzweiler. The only witness provided by the prosecution for this, a woman by the name of Eyer, did *not* confirm what the prosecution affirmed, namely that experiments intended by Professor Haagen in the research into hepatitis had been carried out in the concentration camp at Natzweiler. (*German Tr. p. 1765.*)

Dr. Cording testified in an affidavit submitted by Professor Rose:

"For my training in the study of hygiene and bacteriology I was detailed in February 1944 to the Hygiene Institute of Strasbourg University where I was engaged, until the military occupation of the town on 23 November 1944, almost exclusively on work connected with hepatitis (series of inoculations of mice and proof of virus in the organs of mice) under Professor Haagen."

* * * * * * *

"It did not come to my ears that during the time I was in Strasbourg experiments with hepatitis were made on human beings within the framework of this cooperation. In the middle of July 1944 Stabsarzt Dr. Dohmen went from Giessen to visit Professor Haagen in Strasbourg for about 2–3 days. During this time he saw for himself in the Institute the results obtained from our research work in hepatitis. He confirmed that the results of his experiments had been similar but that all his research material had been destroyed in an air raid on Berlin. At present he was busy in Giessen making a fresh start with his own experiments.

"I know for a fact that Dr. Dohmen was not in Natzweiler during the time of his visit to Strasbourg. I know nothing of any further cooperation between Professor Haagen and Dr. Dohmen."

Thus it is proved that Dr. Dohmen was not at the Natzweiler concentration camp and did not take part in any experiments on human beings there in this particular branch of medicine. In correcting his affidavit (*NO–371, Pros. Ex. 186*) the defendant Rudolf Brandt declared upon oath that he had no knowledge that these experiments had been carried out in Sachsenhausen and that some of the prisoners died. In like manner he revoked his evidence concerning the co-

operation of Dr. Dohmen and Dr. Haagen in the Natzweiler concentration camp and declared that no facts were known to him about this. (*German Tr. pp. 1990–1993.*) Finally Rudolf Brandt declared in his affidavit (*Handloser 11, Handloser Ex. 35*) that no facts were known to him from which could be deduced that the defendant Handloser had any knowledge of the experiments in Sachsenhausen and Natzweiler.

If one also takes into consideration Professor Gutzeit's testimony that Professor Handloser had reported nothing about Dohmen working in the concentration camp in Sachsenhausen or of his activity there, the following emerges: Professor Handloser's answer is correct that he had no knowledge that experiments with epidemic jaundice were conducted on human beings in the concentration camps of Sachsenhausen and Natzweiler.

On the other hand Professor Handloser declares that he had a considerable interest in the hepatitis research work, as it is also established that not only his consulting physician Gutzeit but also numerous other offices had concerned themselves with hepatitis research. Professor Handloser gave reasons, confirmed by Professor Gutzeit, why he, as medical officer responsible for the management of health matters in the army, had the duty to give importance to the research in order to find out what caused epidemic jaundice. As far as Handloser knew, this research was carried out in accordance with recognized medical practice, i. e., by experiments on animals and on the persons of the experimenters themselves; likewise by unobjectionable clinical examinations of human beings.

This also emerges from the hepatitis meeting of June 1944 in Breslau. Professor Gutzeit also reported about this meeting and declared upon oath that six or seven different hepatitis research workers had given reports on their experiments and the results obtained. Nothing was said about experiments on human beings. From this Professor Handloser, who took part in the meeting which included the military and civilian sector, must have gained the impression that research into hepatitis was conducted in a generally recognized medical fashion.

As it could not be established at this meeting whether the organisms bred by the various offices were identical, or whether it was a question of different viruses (*German Tr. p. 2737*), the suggestion made by Generalarzt Dr. Schreiber, who as the delegate of the Reich Research Council for the combat of epidemics was the chairman of the meeting, was to the point and served the purpose. His suggestion was that various working groups for hepatitis research be formed in order that results obtained on each side might be compared. On both direct and cross-examination, Professor Gutzeit gave a convincing explanation for his letter of 24 June 1944 (*NO–124, Pros. Ex. 193*), in which he speaks of the experiments "*crucis ed hominem.*" He declared that

he had prepared with his students and candidates a vaccination with the virus material placed at his disposal in Breslau. (*German Tr. pp. 2739–2740.*)

Dr. Dohmen's visit to Strasbourg, which was requested by Haagen, was to have been made in compliance with the suggestion of Dr. Schreiber to form a circle of research groups.

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d. Evidence

Prosecution Documents

Doc. No.	Pros. Ex. No.	Description of Document	Page
NO–371	186	Affidavit of defendant Rudolf Brandt, 14 October 1946, concerning experiments to determine the cause of epidemic jaundice.	503
NO–011	188	Note from Himmler to Grawitz, 16 June 1943, concerning epidemic jaundice experiments at concentration camp Sachsenhausen.	504
NO–299	190	Letter from Haagen to Schreiber, 12 June 1944, concerning epidemic jaundice experiments.	505
NO–125	194	Copy of letter from Haagen to Gutzeit, 27 June 1944, concerning epidemic jaundice experiments on human beings.	506

Testimony

Extract from the testimony of defendant Karl Brandt 506

PARTIAL TRANSLATION OF DOCUMENT NO–371 PROSECUTION EXHIBIT 186

AFFIDAVIT OF DEFENDANT RUDOLF BRANDT, 14 OCTOBER 1946, CONCERNING EXPERIMENTS TO DETERMINE THE CAUSE OF EPIDEMIC JAUNDICE

I, Rudolf Brandt, being duly sworn, depose and state:

* * * * * * *

Experiments to Determine the Cause of Epidemic Jaundice (Hepatitis Epidemica)

3. About the middle of 1943, Dr. Grawitz, Reichsarzt SS, wrote to Himmler that Dr. Karl Brandt wished to obtain prisoners for experimentation on the causes of a jaundice epidemic. He had been doing research on this problem with the assistance of Dr. Dohmen, a medical officer attached to the Army Medical Corps and the Robert Koch Institute. Experiments had thus far disclosed that contagious jaundice is transferred by a virus and human beings were desired for inoculation with germs which had been cultivated in animals. Grawitz advised that death of some of the experimental subjects must be expected. He wanted to know if Dr. Dohmen could be permitted

to carry out the experiments at the Sachsenhausen concentration camp, as desired by Dr. Karl Brandt.

4. Himmler wrote Grawitz that Dr. Dohmen had his permission to conduct the experiments at Sachsenhausen, and for that purpose he had Oswald Pohl of the WVHA allocate a number of prisoners to be used as experimental subjects. I know that these experiments were carried out and that some of the prisoners died as a result.

5. Dr. Eugen Haagen, Oberstabsarzt and consultant in hygiene for the Luftwaffe, had also been doing research work at the Natzweiler concentration camp in an effort to discover an effective inoculation against epidemic jaundice. As I recall, Dr. Dohmen collaborated with Haagen in 1944 at Natzweiler and experiments on involuntary human beings were conducted which resulted in deaths.

6. These experiments were of course well known to Karl Brandt as he was personally furthering them. Handloser and Schroeder must also have known of them because Dohmen and Haagen were doctors in the Medical Services of the Army and the Luftwaffe respectively. Generalarzt Paul Rostock was also well informed on all research work of this nature.

I have read the above statement in German, consisting of two (2) pages, and it is true and correct to the best of my knowledge and belief. I have had the opportunity to make any changes and corrections in the foregoing statement. This statement was given by me freely and voluntarily, without promise of reward and I was subjected to no duress or threat of any kind.

[Signed] R. Brandt

TRANSLATION OF DOCUMENT NO-011
PROSECUTION EXHIBIT 188

NOTE FROM HIMMLER TO GRAWITZ, 16 JUNE 1943, CONCERNING EPIDEMIC JAUNDICE EXPERIMENTS AT CONCENTRATION CAMP SACHSENHAUSEN

The Reich Leader SS
Day Book No 1652/43, RF/BN

XIa -/- 43
Field H. Q., 16 June 1943

Subject: Investigation of the cause of the infectious jaundice (hepatitis epidemica)

Reference: Yours of 1 June 1943—Az.: 420/IV/43—Diary No. 6/43 g.Kdos.

Top Secret

Reich Physician SS and Police — 4 Copies
Berlin — 3d Copy

I acknowledge the receipt of your letter of 1 June 1943.

1. I approve that eight criminals condemned in Auschwitz (eight Jews of the Polish resistance movement condemned to death) should be used for experiments.

2. I agree that Dr. Dohmen should make these experiments in Sachsenhausen.

3. I agree with your opinion that a real fight against infectious jaundice would be of unheard [of] value.

[Signed] H. Himmler.

2. SS Obergruppenfuehrer Pohl,* Berlin

Carbon copy forwarded with request that you will duly note.

[Signature] SS Obersturmbannfuehrer

TRANSLATION OF DOCUMENT NO–299
PROSECUTION EXHIBIT 190

LETTER FROM HAAGEN TO SCHREIBER, 12 JUNE 1944, CONCERNING EPIDEMIC JAUNDICE EXPERIMENTS

12 June 1944

Generalarzt Professor Dr. Schreiber
Academy of Military Medicine
Berlin NW

Dear Generalarzt:

Enclosed I am sending you my hepatitis report for further use. At the same time I would like to use this opportunity to renew my invitation to Stabsarzt Dohmen. Since I do not know his present address, may I direct this invitation to you and suggest that Dr. Dohmen be assigned to me for several weeks so that we may discover and possibly work on questions we have in common. This would probably be the quickest way to determine whether we have the same virus or not. A satisfactory date for Dohmen's visit to begin would be 15 July.

At the same time I should like to approach the subject of your negotiations for mice. My supplies, and particularly my cultures, are so depleted that they absolutely must be rejuvenated and refilled. You told me in Hohenlychen that it is possible for you to secure mice, even in large numbers. May I ask you to endeavor to secure for me several thousand mice of both sexes, preferably only young animals.

Thirdly I would like to ask whether the hepatitis research will be carried on in future out of funds of the Reich Research Council? My funds for this branch are now exhausted and I am faced with the question as to whether to apply for further funds to my Medical Chief

*Defendant in Case of United States *vs.* Oswald Pohl, et al. See Vol. V.

of the Luftwaffe or to you. I would be grateful to you to be informed about this shortly.

With kindest greetings and compliments,

Heil Hitler!

Very devotedly yours,
[Signed] HAAGEN

TRANSLATION OF DOCUMENT NO–125
PROSECUTION EXHIBIT 194

COPY OF LETTER FROM HAAGEN TO GUTZEIT, 27 JUNE 1944, CONCERNING EPIDEMIC JAUNDICE EXPERIMENTS ON HUMAN BEINGS

Oberstabsarzt Professor Dr. E. Haagen,
Consulting Hygienist to the Air Fleet Physician Reich
Strasbourg, 27 June 1944

To: Oberstarzt Professor Dr. Gutzeit
Consulting Physician to the Army Medical Inspector,
Medical Clinic of University of Breslau, Hobrechtufer 4

My dear colleague Gutzeit,

Many thanks for your letter of 24/6/44. I am glad that Herr Dohmen will come here on 15 July. We shall then review all common hepatitis questions and perhaps also set up the experiments together.

I cannot at present definitely answer your inquiry about human experiments. As you know, I am working with Herr Kalk, Herr Buechner, and Herr Zuckschwert. Naturally, I have already arranged with Herr Kalk that we shall undertake that type of experiment with our material. I must therefore first determine the point of view of the others concerned.

I shall be very glad to begin work on the nephritis material from your Oberstarzt K (?) [sic].

With best greetings,

Heil Hitler!

Yours

EXTRACT FROM THE TESTIMONY OF DEFENDANT KARL BRANDT*

DIRECT EXAMINATION

* * * * * * *

DR. SERVATIUS: The indictment mentions experiments with hepatitis. A letter from Grawitz to Himmler says that you furthered these experiments. Did you yourself do any clinical work on this question?

*Complete testimony is recorded in mimeographed transcript, 3, 4, 5, 6, 7 Feb. 1947, pp. 2301–2661.

DEFENDANT KARL BRANDT: I never did any work in connection with hepatitis epidemica, for that would have been during the war, as before the war this disease was not given much importance in Germany. During the war I did not deal with this question because I was too busy with other things, and also because such a purely internal disease, although perhaps of interest to the hygienist, was relatively uninteresting to me as a surgeon.

Q. Did you allocate research assignments on this subject? How about Dr. Dohmen?

A. I do not know why I should have given a research assignment to Dr. Dohmen. Of course the question of hepatitis was a question which interested everyone, for it was encountered everywhere in the East. But, for that reason I would not have given special attention to that disease. It had no relation to other things which were of more interest to me as a surgeon. I know the letter. I was told about it last year. I saw it here again for the first time this year. It says that I had asked Grawitz to have special hepatitis work carried out by Dr. Dohmen. Dr. Dohmen, the letter goes on, was to obtain seven or eight prisoners for that purpose and the lives of these prisoners would be endangered. It is not clear to me in what connection, and for what reason, my name was mentioned as the instigator of hepatitis research, for in all the rest of the correspondence, and in all the other documents, there is not even the slightest hint that I had any particular interest in this question, or that I was so interested that I would have started the research. I never really knew that the experiments were actually carried out, and I never received any report of results. There are indications contrary to the sense of this letter, especially when it says these experiments are to be carried out on persons condemned to death. Hepatitis epidemica is not a disease as dangerous as all that. I have inquired meanwhile, and know that compared with malaria, for example, it is only about a fifth or a tenth as dangerous. I have already discussed today my relationship with Himmler and with Grawitz. I did not invent that; that was actually the truth. On the other hand, it is interesting to note that in all the correspondence concerning hepatitis, one year later, after the first letter failed to have the desired effect, Professor Schreiber sought a way to approach Himmler in order to have hepatitis research work continued.

Schreiber was the deputy for epidemic control in the Reich Research Council, so that I may assume that, for some reason which is not quite clear to me, Grawitz possibly confused Schreiber and me in the first letter. That is conceivable. The letter is dated 1 June 1943. A short time before that there was a meeting of the Military Medical Academy, and probably Grawitz, who was present, talked to Schreiber as well. In any case I am not able to give any information about this

question of hepatitis, and certainly not about any experiments which actually took place. I have no information; I received no report; and I have not heard from any other source even now that these experiments were really conducted. It seems to me significant that the witness Schmidt, who was heard here, testified that the experiments were certainly not conducted in Strasbourg, as Dohmen, who wanted to conduct them, was there for only two or three days himself.

* * * * * * *

9. TYPHUS AND OTHER VACCINE EXPERIMENTS

a. Introduction

The defendants Karl Brandt, Handloser, Rostock, Schroeder, Genzken, Gebhardt, Rudolf Brandt, Mrugowsky, Poppendick, Sievers, Rose, Becker-Freyseng and Hoven were charged with special responsibility for and participation in criminal conduct involving typhus experiments (par. 6 (J) of the indictment). In the indictment, "spotted fever" was used for the German word "Fleckfieber", but later this was translated as "typhus". (*See also judgment, Vol. II.*) On this charge the defendants Handloser, Schroeder, Genzken, Rudolf Brandt, Mrugowsky, Sievers, Rose, and Hoven were convicted, and the defendants Karl Brandt, Rostock, Gebhardt, Poppendick, and Becker-Freyseng were acquitted.

The prosecution's summation of the evidence on the typhus experiments is contained in the final briefs against the defendants Mrugowsky and Schroeder. Extracts from them are set forth below on pages 508 to 528. The extract of the prosecution brief against Mrugowsky summarizes evidence concerning experiments with old blood plasma, blood transfusions, and withdrawal of blood from inmates of the Buchenwald concentration camp for the purpose of manufacturing a typhus convalescent serum. A corresponding summation of the evidence by the defense on these experiments has been selected from the closing brief for the defendant Rose and the final plea and closing brief for the defendant Mrugowsky. These appear below on pages 528 to 554. This argumentation is followed by selections from the evidence on pages 555 to 631.

b. Selections from the Argumentation of the Prosecution

EXTRACTS FROM THE CLOSING BRIEF AGAINST DEFENDANT MRUGOWSKY

Typhus and Other Vaccine Experiments

The attack against Russia in 1941 gave rise to many military medical problems, not the least of which was typhus. The disease reached serious proportions in the fall of 1941, and typhus vaccines were so

scarce that only doctors, nurses, and other medical personnel in exposed positions could be given inoculations. (*Tr. pp. 3160–3161.*)

One of the most important problems with respect to the increased production of typhus vaccines was the effectiveness of the so-called Cox-Haagen-Gildemeister vaccine, which was produced from egg-yolk cultures. The effective Weigl vaccine, produced from the intestines of lice, was available, but its manufacture was expensive and complicated. The egg-yolk vaccine was relatively simple to produce but its protective qualities were not regarded as having been sufficiently proved. (*NO–732, Pros. Ex. 451.*)

The entry for 29 December 1941 in the Ding diary proves that a conference was held on that date between Handloser, as Army Medical Inspector; Conti, of the Ministry of Interior; Reiter, of the Public Health Department; Gildemeister, of the Robert Koch Institute; and Mrugowsky, of the Hygiene Institute of the Waffen SS. (*NO–265, Pros. Ex. 287.*)

At the conference it was decided that the typhus vaccine from egg yolks was to be tested on human beings to determine its efficacy. On the same day an earlier conference was held which discussed the same problem. It took place at the Reich Ministry of the Interior, and was attended by Bieber of the Interior; Gildemeister; representatives of the General Government in Occupied Poland; officials of the Behring Works of I. G. Farben, and Oberstabsarzt Scholz, of the Army Medical Inspectorate. The minutes of this conference state that:

> "The vaccine which is presently being produced by the Behring Works from chicken eggs shall be tested for its effectiveness in an experiment. For this purpose Dr. Bieber will contact Obersturmfuehrer Dr. Mrugowsky."

Since Mrugowsky was not present at this conference, it is obvious that other conferences took place in which this matter was discussed with him, which is corroborated in the entry of the Ding diary referred to above.

As a result of the decision reached at these conferences, the experimental station in the Buchenwald concentration camp under SS Sturmfuehrer, later Hauptsturmfuehrer Dr. Ding-Schuler (hereinafter referred to as "Ding") was established. (*NO–265, Pros. Ex. 287; Tr. p. 1154.*) The charts drawn by the defendant Mrugowsky, among other proof, show that the experimental station in Buchenwald was subordinated to the Hygiene Institute of the Waffen SS under Mrugowsky from the date of its establishment until the end of the war. (*NO–416, Pros. Ex. 22; NO–417, Pros. Ex. 23.*)

In the beginning of 1943, the research station in Buchenwald was officially called the "Department of Typhus and Virus Research" of the Hygiene Institute of the Waffen SS. The experiments were car-

ried out in Block 46, the so-called Clinical Block, with the exception of a few experiments early in 1942. In the autumn of 1943 a vaccine production department was established in Block 50. Both Blocks 46 and 50 were part of the Division for Typhus and Virus Research. The defendant Hoven was the deputy to Ding in both blocks. (*NO–265, Pros. Ex. 287; Tr. pp. 1155–1156.*)

Criminal experiments on concentration camp inmates without their consent were carried out in Block 46 to test typhus, yellow fever, smallpox, typhoid, para-typhoid A and B, cholera, and diphtheria vaccines.

The typhus experiments in Buchenwald were carried out on a very large scale and resulted in many deaths. The manner of execution and the results of the experiments are proved in great detail by the Ding diary and the testimony of Kogon as well as other evidence. The first experiment began on 6 January 1942 with the vaccination of 135 inmates with the Weigl, Cox-Haagen-Gildemeister, Behring Normal, or Behring Strong vaccines. All vaccinations were completed by 1 February. On 3 March 1942, all of the vaccinated subjects and 10 inmates who had not been vaccinated (known as the "control group") were artificially infected with virulent virus of Rickettsia-Prowazeki furnished by the Robert Koch Institute. The experiment was concluded on 19 April 1942. Five deaths occurred, three in the control group and two among the vaccinated subjects. (*NO–265, Pros. Ex. 287; Mrugowsky 10, Mrugowsky Ex. 20.*)

In later experiments the number of experimental subjects usually varied between 40 and 60, but the proportion of control subjects was increased. Approximately two-thirds of the experimental subjects were vaccinated while one-third remained without protection. A few weeks after vaccination, all experimental subjects were artificially infected with typhus. The course of the disease was then observed in the protected and control groups and the effectiveness of the vaccine was determined. (*Tr. p. 1168.*) Therapeutic experiments were conducted in the same manner with various drugs. For example, between 24 April and 1 June 1943, experiments were performed to test the effect of acridine granulate and rutenol on typhus. Of a total of 39 inmates used, 21 died. (*NO–582, Pros. Ex. 286.*)

Artificial infection was accomplished in various ways. In the beginning the skin was lacerated and infected with a typhus culture. Contagious lice were used to a limited extent. For the most part, however, infection was brought about by the intravenous or intramuscular injection of fresh blood containing the typhus virus. For the sole purpose of maintaining a constant source of infected fresh blood, 3 to 5 inmates per month were artificially infected with typhus. The use of these so-called "passage persons" began at least as early as April 1943 and continued until March 1945. Substantially all of

them died. These victims were so much "a matter of course" that their fatalities were not included by Ding in his diary. (*Tr. pp. 1168–1171.*)

An analysis of the Ding diary proves that a total of 729 inmates were experimented on with typhus, of whom 154 died. To these figures must be added the passage persons, of whom between 90 and 120 died.

So much for the cold statistics of the experiments. Block 46, where the experiments were carried out, was a horror for every inmate of the Buchenwald concentration camp. Everyone selected for the experiments expected to die a slow and frightful death. The man-to-man passage of the typhus virus created a form of "super" typhus. (*Tr. p. 1168.*) While typhus normally has a mortality of about 30 percent in unprotected cases, in an experiment on 13 April 1943 five out of six persons infected died. (*NO–265, Pros. Ex. 287.*) Many of the experimental subjects became delirious. (*Tr. pp. 1172, 1173.*) In the experiments with acridine and rutenol, the subjects vomited up to seven times a day. Bronchial pneumonia, nephritis, intestinal bleeding, subcutaneous phlegmones below the larynx, parotitis, gangrene of the shank, furunculosis, bronchitis, and decubital sores developed as a result of this treatment. (*NO–582, Pros. Ex. 286.*) Experimental subjects who survived and had a lighter course of the disease because the vaccine with which they were vaccinated was effective were forced to watch the death struggle of their fellow inmates. There was an iron discipline in Block 46, the cat-o'-nine-tails ruled supreme, and the experimental subjects were completely deprived of the last vestige of personal freedom which they had in the camp. (*Tr. pp. 1172, 1173.*)

It is hardly necessary to state that the experimental subjects used in the typhus, as well as all other experiments in Buchenwald, were not volunteers. One does not normally volunteer to be killed. In the first series of typhus experiments, a number of inmates were duped into submitting after being told it was a harmless affair and that they would get additional food. They were not informed that they would be artificially infected with typhus nor that they might die. (*Tr. p. 1162;; see also the testimony of Kogon in Case 4,* Tr. pp. 731, 732; NO–3680, Pros. Ex. 536.*) These subjects cannot be described as volunteers. After the first few experiments, it was no longer possible to deceive inmates into offering themselves for the experiments. Thereafter, up until about the fall of 1943, experimental subjects were chosen arbitrarily from among the inmates, whether criminals, political prisoners, or homosexuals. Intrigue among the prisoners themselves sometimes played a role in the selection. In the fall of 1943, the camp administration no longer desired

*United States *vs.* Oswald Pohl, et al. See Vol. V.

to take the responsibility for the selection of the experimental subjects. Ding no longer was satisfied with verbal orders from Mrugowsky to carry out the experiments and he asked for written orders. He approached Mrugowsky with the request that the Reich Leader SS should appoint the experimental subjects. According to a directive from Himmler to Nebe of the Reich criminal police, only those inmates were to be used who had been confined for 10 years or more. Thereafter, most of the experimental subjects were habitual criminals, many of whom were transported to Buchenwald from other camps. But political prisoners were still included because they were in disfavor with the camp administration or because of camp intrigues. None of the experimental inmates had been condemned to death, except a few Russian prisoners of war who had not been tried or sentenced. They were from some 9,500 Russian prisoners of war who were killed in Buchenwald. The experimental subjects were generally in good physical condition. (*Tr. pp. 1162, 1163.*) The experimental subjects included not only Germans, but also Poles, Russians, and Frenchmen, as well as prisoners of war. The testimony of Kogon is applicable not only to the typhus experiments but to the other experiments in Buchenwald as well. (*Tr. p. 1167.*)

This testimony of Kogon is corroborated by the letter from Himmler to the Chief of the Security Police dated 27 February 1944. He said:

> "I agree that professional prisoners be taken for experiments with the typhus vaccine. But only those professional criminals should be chosen who have served more than ten years in prison; that is, not with ten prior convictions but with a total penalty of ten years.
>
> "SS Gruppenfuehrer Nebe is to supervise the disposal of these inmates. I don't wish the physician to pick out inmates without my counter-control." (*NO–1189, Pros. Ex. 471.*)

The same document shows that Mrugowsky received a copy of this decision on change in procedure and that it had been arrived at after a conference between Mrugowsky and Nebe.

The testimony of Kogon is further corroborated by the witness Kirchheimer (*Tr. pp. 1321–1332*) and the affidavit of Hoven. (*NO–429, Pros. Ex. 281.*)

The defense has contested the authenticity of the Ding diary. It is impossible to determine from the record precisely what their position is in that regard. That the diary does not consist of entries made day by day is obvious from the face of the document itself. It is rather a document which periodically summarizes the experiments which in many cases lasted several months. Ding also kept a daily diary and work reports. (*Tr. p. 1226.*) These obviously form the basis of the diary in evidence. The defense lays great stress on the

fact that page one of the diary was typed with an older ribbon than pages two et seq., and hence was probably typed later. The prosecution has no quarrel with that. Kogon gave the very obvious explanation that the page was probably re-typed when the name of the experimental station was designated as the "Department for Typhus and Virus Research". (*Tr. p. 1228.*) At best, the reasons for re-typing pages are now a matter of sheer speculation. No valid inference can be drawn from that fact alone. The Ding diary was taken by Kogon from Buchenwald. It was in his exclusive possession until delivered to the Office of Chief of Counsel for War Crimes. He testified that he did not alter the document in any respect and that the signatures of Ding, and later Schuler, are genuine. (*Tr. pp. 1164–1166.*) He had no motive for changing the diary. The document was authenticated by the prosecution as being in the same condition as when received.

The experts of the defense established that the document was written on the same typewriter with the same kind of paper. Mrugowsky admitted that Ding's signature is on substantially all of the pages of the diary. (*Tr. p. 5410.*) There is no contention they have been forged. A comparison of the admittedly genuine signature of Ding on a vaccination chart (*NO–578, Pros. Ex. 284*), and of Schuler on an affidavit signed by him after the war (*NO–257, Pros. Ex. 283*), with the signatures of Ding-Schuler in the diary prove beyond any doubt that the signatures are authentic.

The defense has not established a single inaccuracy in the Ding diary. The prosecution, on the other hand, has proved the detailed accuracy of the diary time and again by the introduction of independent documents. It will suffice to cite a few examples. The work report of the "Division for Typhus and Virus Research" for the year 1943, which was sent to Mrugowsky, substantiates the corresponding entries in the diary in every detail. (*NO–571, Pros. Ex. 285.*) The paper written by Ding on the treatment of typhus with acridine derivatives, approved by Mrugowsky, checks to the last detail with the experiment reported by the entries in the diary for 24 April and 1 June 1943. (*NO–582, Pros. Ex. 286.*) Mrugowsky's letter of 5 May 1942 to Conti, Grawitz, Genzken, Gildemeister, Eyer, and Demnitz reporting on a typhus vaccine experiment is in fact a description of the first experimental series in Buchenwald as given in the diary. This was a document submitted by the defense. (*Mrugowsky 10, Mrugowsky Ex. 20.*) Mrugowsky admitted he was reporting on that experiment. (*Tr. p. 5414.*) The entry in the diary for 19 August 1942 concerning the testing of the Bucharest [Cantacuzino] vaccine made available by Rose, is corroborated by Mrugowsky's letter to Rose, dated 16 May 1942, asking for the vaccines. (*NO–1754, Pros. Ex. 491.*) The entry for 8 March 1944 concerning the experiments with the Ipsen [Copenhagen] vaccine, which the diary shows were

suggested by Rose, is substantiated by Rose's letter to Mrugowsky of 2 December 1943 (*NO–1186, Pros. Ex. 492*), and by Lolling's letter to Grawitz of 14 February 1944. (*NO–1188, Pros. Ex. 470; see also, NO–1189, Pros. Ex. 471.*) The yellow fever vaccine experiments reported in the diary on 10 January 1943 are dealt with in a letter from the Behring Works to Mrugowsky dated 5 January 1943. (*NO–1305, Pros. Ex. 469.*) The phosphorus bomb experiments are noted in the Ding diary under the dates of 19 to 25 November 1943. The report on these experiments dated 2 January 1944 shows the burning of inmates began on 19 November and ended on 25 November 1943. (*NO–579, Pros. Ex. 288.*) As to the conference held on 29 December 1941 reported in the Ding diary, Mrugowsky made the following statement in a pre-trial interrogation: "I remember that meeting and it occurred to me that there were present Schreiber, Gildemeister, Ding, and myself." Mrugowsky admitted in open court having made such a statement. (*Tr. p. 5380.*)

The above analysis of the authenticity and accuracy of the Ding diary, while not exhaustive, suffices to show that the defense objection to this document is completely without merit. There is scarcely a line in the whole diary which has not been substantiated either by documents or testimony. The diary must be accepted as accurate in its entirety. There is no basis whatever for accepting some entries and rejecting others. The defense has presented no credible evidence of *any* inaccuracies. The living record of the deceased Ding is the best evidence of what actually happened.

Other vaccine experiments were carried out in the experimental station in Buchenwald. On request of the Medical Inspectorate of the Army, yellow fever vaccine containing a live virus was tested in a large-scale experiment on inmates which began on 10 January 1943. The arrangements were made by Schreiber through the defendant Mrugowsky. (*NO–1305, Pros. Ex. 469.*) A very large number of inmates were vaccinated between 13 January and 17 May 1943 at which time production of the yellow fever vaccine was abandoned because of the military situation in North Africa. The results of these experiments were sent to Amt XVI in the SS Operational Headquarters, which was the hygiene office under Mrugowsky, and to the Army Medical Inspectorate. (*NO–265, Pros. Ex. 287.*)

In the first part of 1943, Mrugowsky conferred with Handloser concerning multiple vaccinations. (*Tr. p. 3064.*) There can be no doubt that this was the motivation for the large scale vaccination experiments on 45 inmates of Buchenwald between 24 March and 20 April 1943, as set forth in the Ding diary. Each person was vaccinated on eight different days within four weeks against smallpox, typhoid, typhus, para-typhoid A and B, cholera, and diphtheria. The report on these experiments was sent to Mrugowsky's office. Kogon testified

that the experimental subjects were given para-typhoid bacilli in potato salad. He also stated that the experiments in Buchenwald with diseases other than typhus resulted in deaths, although relatively fewer. (*Tr. pp. 1182, 1183.*)

Mrugowsky would have the Tribunal believe that he is in no way responsible for the experiments carried out by Ding and Hoven in the Buchenwald concentration camp. He testified, in effect, that Ding was directly subordinated to Grawitz as far as the experiments were concerned. (*Tr. p. 5067.*) While he did admit that Ding was subordinated to him for purposes of vaccine production in Block 50 in Buchenwald, he said he had nothing whatever to do with the experiments carried out in Block 46. The same contention was made by the defendant Genzken. Mrugowsky testified that he was outraged by the idea of experimenting on human beings since he was of the opinion that human life is sacred. (*Tr. p. 5066.*)

The proof, however, is overwhelming that Mrugowsky ordered the experiments carried out by Ding in Buchenwald. In his own pre-trial affidavit Mrugowsky stated that the Division for Typhus and Virus Research of the Hygiene Institute of the Waffen SS in Buchenwald was established in the beginning of 1942 by Genzken. He admitted that as Chief of Amt XVI (hygiene) in the SS Operational Headquarters and as Chief of the Hygiene Institute of the Waffen SS, he was the immediate superior of Ding. He stated further that experiments on inmates were carried out by Ding in order to determine the effect of various typhus vaccines. He admitted he obtained full knowledge of the work of Ding: that he received reports from him on the experiments, including the death rates, and that he informed Genzken. (*NO–423, Pros. Ex. 282.*) The two charts drawn by the defendant Mrugowsky clearly show that the experimental station in Buchenwald under Ding was directly subordinated to Mrugowsky from the time of its establishment until the collapse of Germany. (*NO–416, Pros. Ex. 22; NO–417, Pros. Ex. 23.*) Mrugowsky admitted Ding's connection with the Hygiene Institute of the Waffen SS on cross-examination. (*Tr. p. 5371.*)

The pre-trial affidavit of the defendant Hoven who was deputy to Ding and certainly in a position to know the facts, states that the Hygiene Institute of the Waffen SS under Mrugowsky received all the reports on the experiments in Block 46 and that Ding received orders directly from Mrugowsky. Hoven outlined the chain of command as: Grawitz, Genzken, Mrugowsky, and Ding. Ding went to Berlin for discussions with Mrugowsky nearly every second week. Mrugowsky visited the home of Ding on one of his trips to Buchenwald. (*NO–429, Pros. Ex. 281.*)

Kogon testified that Ding reported personally to Mrugowsky on the experiments, and when he did not go to Berlin himself, he reported

regularly every three months in writing. (*Tr. pp. 1155–1186.*) The reports on the experiments carried out in Block 46 were sent to Mrugowsky in Berlin. (*Tr. p. 1160.*) Ding's official correspondence was primarily with Mrugowsky. (*Tr. p. 1157.*) The instructions for the execution of the experiments came from Mrugowsky. (*Tr. pp. 1163, 1219.*) In the late summer of 1943 Mrugowsky became the sole chief of Ding and issued all orders to him. (*Tr. p. 1202.*) Mrugowsky occupied such an important position that it would have been dangerous for Ding to contact Grawitz over his head. (*Tr. p. 1241.*) Mrugowsky visited the experimental block in Buchenwald on several occasions. (*Tr. pp. 1244, 1245; Tr. p. 1329.*)

The proof outlined above as to Mrugowsky's responsibility is repeatedly supported by documentary evidence. Ding's work report for the year 1943, which lists the experiments carried out in Block 46, was sent to Mrugowsky and carried the letterhead "Hygiene Institute of the Waffen SS, Division for Typhus and Virus Research, Weimar-Buchenwald." (*NO–571, Pros. Ex. 285.*) This work report covers the experiments in Block 46 *and* the production of vaccines in Block 50, which conclusively proves that Mrugowsky's assertion that his responsibility was limited to Block 50 is completely false. The same report shows that Mrugowsky inspected the Division for Typhus and Virus Research in Buchenwald on 3 September 1943, and that Ding had several conferences with Mrugowsky. Mrugowsky's own secretary admitted that Ding's reports about his experiments on inmates went via the Hygiene Institute of the Waffen SS to Grawitz. (*Mrugowsky 38, Mrugowsky Ex. 13.*)

Mrugowsky received Ding's report on the treatment of typhus with acridine derivatives. (*NO–582, Pros. Ex. 286.*) This report speaks of clinical tests on human beings who were afflicted with typhus, but Mrugowsky knew that Ding experimented by artificially infecting the subjects. (*Tr. p. 5066.*) The report shows on its face that 21 of the experimental subjects died and that the inmates who survived had to fight severe complications of the disease. This same experimental series is reported in the Ding diary under the entries for 24 April and 1 June 1943.

The first experimental series on typhus carried out in Buchenwald between 6 January and 19 April 1942 in which 145 inmates were used as experimental subjects was the basis of a report by Mrugowsky to Conti, Grawitz, Genzken, Eyer, and Demnitz, dated 5 May 1942. (*Mrugowsky 10, Mrugowsky Ex. 20.*) Five of the subjects died as a result of these experiments. (*NO–265, Pros. Ex. 287.*)

The experiments with the Cantacuzino vaccine from Bucharest, reported in the Ding diary under the entry for 19 August 1942, were ordered by Mrugowsky. This vaccine was furnished by the defendant Rose, who requested Mrugowsky to arrange for the experiments. On

16 May 1942 Mrugowsky wrote to Rose stating that Grawitz had consented to the execution of the experiments and that the vaccine should be sent to him (Mrugowsky). He also agreed to conduct experiments to determine whether the louse could be infected by a vaccinated typhus patient. This, of course, necessitated the infection of the experimental subject with typhus. (*NO–1754, Pros. Ex. 491.*) As a result of these experiments, four of the subjects died. (*NO–265, Pros. Ex. 287.*)

The typhus experimental series No. VIII, during which the Ipsen vaccine from Copenhagen was tested, was also ordered by the defendant Mrugowsky. On 2 December 1943 Rose asked Mrugowsky to have the Ipsen vaccine tested in Ding's experimental station in Buchenwald. (*NO–1186, Pros. Ex. 492.*) Mrugowsky expressly denied, during cross-examination, that he was ever approached by Rose to have the Copenhagen [Ipsen] vaccine tested in Buchenwald. He stated that: "If he had come to me I would have sent him on to someone else. I would have said: 'My dear man, that does not have anything to do with me.'" (*Tr. pp. 5434, 5435.*) On 21 February 1944 Mrugowsky was notified that 30 "appropriate gypsies" would be made available for testing the Ipsen vaccine. (*NO–1188, Pros. Ex. 470.*) Mrugowsky was further advised on 29 February 1944 that the experimental subjects would be designated by the office of Nebe of the Reich criminal police. (*NO–1189, Pros. Ex. 471.*) The Ding diary proves that the experiments with the Ipsen vaccine began on 8 March 1944 with 30 experimental subjects, of whom six died as a result of the experiments.

On 12 August 1944 the defendant Mrugowsky ordered Ding to carry out experiments to determine the infectious character of blood of slight cases of typhus compared with that of serious cases. (*NO–1197, Pros. Ex. 472.*)

Mrugowsky ordered a series of experiments to determine whether the course of typhus could be tempered by intravenous or intramuscular injection of typhus vaccine. Of the 25 experimental subjects used, 19 died. This experiment was carried out between 11 November and 22 December 1944. (*NO–265, Pros. Ex. 287.*)

* * * * * * *

Experiments with Old Blood Plasma and the Production of Blood Plasma and the Typhus Serum

Experiments with old blood plasma were conducted on inmates in Buchenwald by order of Mrugowsky at the request of the Military Medical Academy. Blood transfusions were carried out in order to determine whether old blood plasma could be used without danger, especially without danger of shock. Several series of experiments

were performed, each with 10 to 20 experimental subjects. Some of the victims died, probably due to the combined effect of shock and poor physical condition. Mrugowsky received reports on these experiments. (*Tr. pp. 1190–1192; NO–265, Pros. Ex. 287.*)

The entries for 26 May and 13 October 1944 in the Ding diary show that blood was withdrawn from inmates recovering from typhus for the purpose of making a typhus convalescent serum. The witness Kogon testified that this work was done by SS Hauptsturmfuehrer Dr. Ellenbeck on order from Mrugowsky. Ellenbeck obtained the blood from typhus convalescents in Block 46 from the summer of 1944 until the spring of 1945. Blood was taken from these experimental subjects regularly, usually in amounts between 250 and 350 cubic centimeters. Taking the blood from the convalescent patients meant an extraordinary burden on them and a number died. While the precise cause of death could not be definitely ascertained under the circumstances, there is no doubt that the withdrawal of blood was a contributing factor. (*Tr. pp. 1192, 1193.*)

Kogon further testified that Ellenbeck, on orders from Mrugowsky, systematically selected invalids and old persons, especially Frenchmen, who were in the so-called "little camp" of Buchenwald, for the purpose of withdrawing blood to be used in making blood plasma. The horrible conditions in the "little camp" were vividly described. The blood was demanded from the victims and was taken from them. Sometimes extra food was given to these starving patients. (*Tr. pp. 1194–1196.*) Upon being asked whether any of these blood donors in the "little camp" in Buchenwald died from this blood-letting, Kogon replied:

> "The question shows that it is very difficult to gain a real concept of the 'little camp' at Buchenwald. The people died there in masses. During the night corpses were lying in the blocks naked because they were thrown out of the bunks by the other prisoners so that they would have a little more space. Even the smallest pieces of clothing were torn off by those who wanted to survive. It is impossible to determine if anybody died as the direct and immediate result of the taking of blood, because many people fell and died while walking around in the 'little camp'.
>
> "But it is beyond doubt to anyone who knew the conditions there, that the taking of blood—even if a small measure of strength was given to these people as far as food was concerned—was a considerable contributing factor in the death of very many of them." (*Tr. p. 1196.*)

Ellenbeck also conducted research concerning the oxygen content of the blood of human beings in various stages of exhaustion and artificially produced starvation oedema. Mrugowsky gave his approval to these experiments. (*Tr. pp. 1257–1266.*)

* * * * * * *

Typhus and Other Vaccine Experiments in the Natzweiler Concentration Camp

The appearance of Haagen as a defense witness requires consideration of his testimony on these experiments.

Haagen testified that in the summer of 1943 the defendant Rose, as consulting hygienist to the Chief of the Medical Service of the Luftwaffe, prevailed upon him to resume active status as consulting hygienist to the Air Fleet Physician Reich. Haagen also accepted a typhus research commission from the Luftwaffe and as a result of this commission and his position in the Luftwaffe, he carried out certain typhus experiments. (*Tr. pp. 9564, 9565.*)

Haagen stated that Stabsarzt Graefe was assigned to him at the Hygiene Institute of the University of Strasbourg in 1942 by the Luftwaffe and that Graefe acted as his assistant. Graefe was militarily subordinated to Luftgau Physician 7 but technically subordinated to Haagen. (*Tr. p. 9582.*) Haagen was also militarily subordinated to Luftgau Physician 7. (*Tr. p. 9563.*)

Haagen had developed a murine typhus (rat typhus) vaccine which contained an attentuated virulent (living) virus. (*Tr. pp. 9596, 9597.*) Haagen testified that he performed compatability tests with this vaccine on 28 inmates of Schirmeck concentration camp, which was a subcamp of Natzweiler. Eight inmates were vaccinated with .5 cc. of this virulent vaccine, ten with .5 cc. [of virulent vaccine], and ten with a dead vaccine plus .5 cc. of the virulent vaccine. Three additional inmates were vaccinated with a dead vaccine for purposes of comparison. He stated that no serious reactions occurred as a result of these vaccines. (*Tr. p. 9603.*) All of these vaccinations were carried out in the month of May 1943 and no vaccinations occurred after that date, according to Haagen. (*Tr. p. 9636.*) In the fall of 1943 Haagen transferred his activities to Natzweiler on the alleged ground that he felt a typhus epidemic was more likely there than in Schirmeck. (*Tr. p. 9603.*) He requested through Hirt that 100 concentration camp inmates be put at his disposal in Natzweiler for purposes of these experiments. These inmates were transferred from Auschwitz to Natzweiler during the month of November 1943, 18 of whom died on the way. Haagen found the remainder unsuitable for his purposes and requested an additional 100 which were made available during December 1943. He testified that of these, 40 inmates were subjected to a series of two vaccinations by injection to bring about immunity and a third vaccination by scarification to test

the immunity. For purposes of comparison, a second group of 40 inmates designated as "controls" was given only the third scarification vaccination. The same vaccine was used for all of these alleged vaccinations and was a new vaccine containing an attenuated virulent Rickettsia-Prowazeki virus (louse typhus). The scarification vaccine applied to both groups of subjects contained a smaller quantity of vaccine than the first two injection vaccinations given to the group immunized. In the first group the injected vaccine produced what Haagen described as the normal vaccine reaction. Substantially the same reaction occurred in the control group which received only the third scarification vaccine. The reaction was no more serious than in those who were vaccinated by injection. (*Tr. pp. 9615–7.*)

Haagen admitted that the subjects used by him both in Schirmeck and Natzweiler were of many different nationalities, among whom were gypsies and Poles. (*Tr. p. 9607.*) He further testified that these inmates were not volunteers because, as he said, he was only carrying out protective vaccinations. (*Tr. pp. 9541–2.*)

Haagen stated that the only reason he performed these vaccinations in Schirmeck and Natzweiler was because he was asked to do so by Kramer, camp commandant in Natzweiler. He and Kramer were disturbed about the possibility of a typhus epidemic in the middle of 1943, although he testified that in fact no typhus cases actually occurred until March 1944. (*Tr. pp. 9594–5.*) He went to Schmireck only because he and Kramer feared an epidemic. (*Tr. p. 9600.*)

Haagen's testimony, as outlined above, is completely incredible on its face as well as in view of the documents which were submitted by the prosecution and available to Haagen at the time he testified. Firstly, it is utterly ridiculous to credit his statement that he went to Schirmeck and Natzweiler only because he feared an epidemic. It is ridiculous to suppose that a concentration camp commander, on his own initiative, sought medical assistance from doctors in the towns surrounding a concentration camp. The WVHA, to which all concentration camps were subordinated, had a very elaborate medical system and it is unthinkable that a local camp commander would ask aid from an outsider. Secondly, it is ridiculous to suppose that Haagen, out of the kindness of his heart and the fear of an epidemic spreading beyond the confines of the camp, would use his precious typhus vaccine to protect the miserable wretches who were imprisoned in the concentration camps. Haagen himself stated that he had very little typhus vaccine. (*Tr. p. 9613.*) It has been repeatedly testified to during the course of this trial that typhus vaccines were critically short in Germany during the war and that there were not even sufficient quantities to vaccinate doctors, nurses, and other personnel exposed to special danger. That this vaccine would be used to

protect concentration camp inmates is unthinkable. Thirdly, it is ridiculous to suppose that any scientist could have possibly thought that vaccinating 28 inmates in Schirmeck and 80 in Natzweiler could have had any possible effect on the likelihood of a typhus epidemic.

That Haagen perjured himself with respect to what he was really doing in Natzweiler during the course of his typhus experiments is clearly evident from his own letter of 27 June 1944 to Hirt. In a letter of 9 May 1944 to Hirt, Haagen requested that an additional 200 persons be furnished to him for his experiments. (*NO–123, Pros. Ex. 303.*) Supplementary to this request, he stated in his letter of 27 June 1944 that, "in the subsequent inoculations with virulent typhus which are to be made for the purpose of testing the protective vaccine, one must count on sickness particularly in the control group which has not received the protective vaccines. These after-inoculations are desirable in order to establish unequivocally the effectiveness of the protective vaccines. This time 150 persons will be used for the protective vaccine and 50 for the control inoculations." (*NO–127, Pros. Ex. 306.*)

It should be noted specifically that in the letter quoted above, Haagen pointed out to Hirt that sickness was to be expected in the control group which had not received the protective vaccine. Haagen testified that this additional group of 200 inmates requested by him was merely for the purpose of vaccination, just as he had done in December 1943 and January 1944 on the 80 experimental subjects. He added that in May he had enough vaccine for 200 more persons and he was merely trying to increase the protection in the camp. (*Tr. p. 9613.*) The falsity of Haagen's testimony is clearly apparent from the statement in the letter that sickness was expected in the *control group.* He had previously testified that there was no reason whatever to expect any more serious reaction to the scarification vaccination in the control group than to the injected vaccine in the immunized group. (*Tr. p. 9618.*) Indeed, there was every reason to expect that the vaccine injected in the immunized group would bring about a more serious reaction since more vaccine was given by injection than by scarification. Haagen applied a much larger quantity of the vaccine in the first two injections of the immunized group than in the scarification vaccination of both the immunized and the control group. The same vaccine was used throughout. (*Tr. p. 9710.*) The method of vaccination, whether by injection or scarification, has no effect on reaction to the vaccine. Haagen specifically testified that "if we vaccinate by scarification we can expect that the effect of the vaccine will be the same as if we inject subcutaneously or intramuscularly." (*Tr. p. 9710.*)

Haagen was quite unable to reconcile his statement in his letter to Hirt of 27 June 1944 that "one must count on sickness, particularly

in the control group" with his testimony that there was no difference in the reaction to the vaccine as between the immunized and control groups. Indeed, the only possible interpretation of his letter is that instead of vaccinating the immunized and control groups by scarification, he, in fact, infected them with typhus. Haagen knew that the unprotected control subjects would become ill with typhus. Haagen also had no explanation for the letter of Kahnt, Chief of Staff to Schroeder, of 29 August 1944, in which he was asked "whether it may be assumed that the typhus epidemic prevailing at Natzweiler at present is connected with the vaccine research." (*NO–131, Pros. Ex. 309.*) He testified that he had completed his vaccinations of the 80 experimental subjects during January 1944 and that all of his serological examinations were finished no later than February 1944 and that the experimental subjects were released from confinement. Haagen submitted a report to the Luftwaffe no later than May or June 1944 to the effect that the vaccine had been a success. (*Tr. pp. 9627–9.*) There was no reason whatever for Kahnt and Rose to address such an inquiry to Haagen when he had long since completed his experiments, according to his testimony, and submitted a success report to the Luftwaffe at least two months before the inquiry. It is quite impossible that vaccine tests which caused no typhus in the vaccinated persons could cause typhus in other persons, as suggested by Rose during his examination. Moreover, it should be noted that Kahnt's letter clearly indicated an understanding on his part that Haagen's vaccine research in Natzweiler was contemporaneous with the epidemic. This, Haagen testified, he could not understand. Haagen also had considerable difficulty explaining why, in his letter of 19 September 1944, in reply to Kahnt's inquiry, he didn't state that he had conducted no vaccinations or experiments in Natzweiler since January 1944 and that his vaccinations had caused no illness in the subjects, let alone caused a typhus epidemic. Haagen simply stated in his letter that, "We hereby inform you that no connection existed between the cases of typhus in Natzweiler and the examinations dealing with typhus vaccine *that is to be tested.*" [Emphasis added.] (*NO–132, Pros. Ex. 310.*) Indeed, Haagen himself stated in his reply that the vaccine was still under test, contrary to his testimony before this Tribunal.

Haagen would have the Tribunal believe that he had no typhus virus strain which was pathogenic to human beings, that he could not have brought on a serious case of typhus even had he tried to do so. (*Tr. pp. 9608, 9612.*) In the very same breath he testified that there was considerable danger of infection in working about the laboratory and that he gave his assistants a "risk bonus." (*Tr. p. 9608.*)

Haagen testified that he performed no vaccinations after January 1944. He reiterated this time and again during the course of his ex-

amination. (*Tr. pp. 9614–5.*) When asked his reason for not vaccinating during the typhus epidemic in Natzweiler in the spring and summer of 1944, which offered an opportunity to test the anti-infectious effect of his vaccine under natural conditions, he lamely answered that he had to make so many official military trips that he had no time. (*Tr. p. 9614.*) Although he had sufficient vaccine to justify his asking for 200 additional experimental victims in May 1944, his only effort in the typhus epidemic, according to his testimony, was to send them decontamination equipment. (*Tr. p. 9614.*) It is not readily apparent, to say the least of it, just why some other doctor or an assistant of Haagen could not have performed the vaccinations which Haagen would have the Tribunal believe he was so anxious to have done for the protection of the camp.

All of the above contradictions and falsifications appear upon the face of Haagen's testimony as well as from the documents which he had so carefully studied before his appearance. The documents submitted to him during cross-examination reveal his testimony to have been perjurious from start to finish. Haagen repeatedly testified that he carried out no vaccinations in Schirmeck after May 1943. He stated that in Schirmeck he only performed a single vaccination and not the series of vaccinations to test "anti-infectious immunity" because at that time his "knowledge hadn't progressed so far." (*Tr. p. 9636.*) In connection with the Ipsen vaccine, about which Rose had corresponded with him, he especially denied that he ever proposed to Rose that experiments be carried out with it. Haagen's letter to Rose of 4 October 1943 squarely contradicts him on both of these significant points. (*NO–2874, Pros. Ex. 520.*) He stated in his letter that:

> "I already reported to you the numeral results of experiments on human beings. *The serum titer is considerably higher, also after a single vaccination, in comparison with three vaccinations with deactivated vaccines.* I regret that it was not possible so far to perform infectious experiments on the vaccinated persons; I requested the Ahnenerbe of the SS to provide suitable persons for vaccination, but have not received an answer yet. *We are now performing a further vaccination of human beings;* I shall report later about the result. I guess we will then have reached the point of being able to recommend the introduction of our new vaccine for the time being without infectious experiments." [Emphasis added.]

* * * * * * *

In this same letter of 4 October 1943, Haagen discussed Rose's report concerning the Ipsen vaccine from Copenhagen. He concluded his letter by stating: "If we can get experimental subjects from the SS for test vaccinations, it would be an opportunity to test the liver vaccine as well on its anti-infectious effect. I would then suggest that our material be used parallel with the Ipsen tests." Thus, Haagen

testified falsely when he said that he did not propose experiments with Ipsen vaccine. In his letter he very specifically proposed performing anti-infectious experiments with the Ipsen vaccine as well as his own vaccine. This again proves that the use of the phrase "infectious experiments" could not possibly mean multiple vaccinations with living typhus vaccine. The Ipsen vaccine was a dead vaccine; it contained no attenuated virulent virus. Three vaccinations with a dead vaccine could not be designated an "infectious experiment" even by Haagen. (*Tr. p. 9655.*) Moreover the defense's own proof shows that the Ipsen vaccine had already been tested for tolerability and found comparable with other vaccines used by the Wehrmacht. This is clear from Rose's letter to the Behring-Works and Haagen, among others, dated 29 September 1943. (*Rose 22*, *Rose Ex. 21.*) It is quite clear that the only type of experiment left open for the Ipsen vaccine was precisely the kind that Haagen proposed, namely, after-infection of the vaccinated and control subjects with typhus.

Haagen was further impeached by the notes kept on his typhus experiments by his assistant, Miss Crodel. (*NO–3852*, *Pros. Ex. 521.*) Haagen definitely identified these notes as having been written by Miss Crodel. (*Tr. p. 9691.*) Miss Crodel had been an assistant of Haagen's for many years and he found her most reliable. (*Tr. p. 9701.*) He conceded that Miss Crodel was very careful in her work. (*Tr. p. 9697.*) On page three of the notebook appears a series of entries dating from 30 April 1943 to 27 January 1944 concerning a series of experiments in Schirmeck. The entry for 19 May 1943 shows that two out of four mice injected with his vaccine died. The entry for 26 May reads: "(4 weeks) 3–6, 0.5 *per person* and 6 mice 0.5 i. p., 5 dead, after 10, 14, 14 days, the rest after 4 weeks." This entry proves that on that date human beings were inoculated with Haagen's vaccine. To say the least of this entry, five mice who were similarly vaccinated died as a result. The phrase "the rest after 4 weeks" can obviously refer also to deaths among experimental persons since it is quite impossible that this phrase could be used to refer to the one remaining mouse. The entry for 6 July indicates that on that date Haagen and his assistants appeared in Schirmeck for the purpose of withdrawing blood from ten persons, who had been previously vaccinated, for a Weil-Felix reaction test. The entry gives the serum titer value of eight of the experimental subjects. The entry is ended with the laconic note, "the other two were not here anymore." This entry is conclusive corroboration of the testimony of the witness, George Hirtz, who stated that Haagen had tested his vaccine at Schirmeck in the summer of 1943. Approximately 20 Polish inmates were used in these experiments and, following the inoculations, two of the experimental subjects died. Hirtz testified that he himself sewed up the bodies of the inmates in paper bags and delivered them for cre-

mation. The other experimental subjects had reactions such as high fevers, shock, and impairment of speech. (*Tr. pp. 1293–1299.*) His testimony is further corroborated by Haagen himself, who stated that two groups of ten inmates were inoculated by him in Schirmeck. The entry in the Crodel notes obviously has reference to one of these groups of ten, and upon arrival of Haagen and his assistants in the camp for the purpose of withdrawing blood, it was found that two of the subjects had died.

The entry for 4 October 1943 on page three of the Crodel notes reads "(six months) inoculated 20 persons in Schirmeck, Tube—2 cc. distilled water, 0.5 per person." (*NO–3852, Pros. Ex. 521.*) This proves not only that Haagen testified falsely when he stated that he carried out no typhus vaccinations in Schirmeck after May 1943 but also that multiple vaccinations with his vaccine were performed. This entry bears the same date as Haagen's letter to Rose, referred to above, which also stated that he was performing further vaccinations. The last entry on page three is dated on the original as 27 January 1943 and reads: "(9 months) mixed with the same amounts (as 21 May) distilled water tube, 20 persons 1.1 cc. each." The date 1943 is obviously a mistake on the part of Miss Crodel in making the entry. This is proved by the fact that the period of time indicated in parentheses in the notes refers to the period of time the vaccine had been stored. Haagen so admitted. (*Tr. p. 9711.*) Thus the reference "(9 months)" means that the vaccine being used in that series of experiments had been stored for nine months since 30 April 1943, the date of the first entry on page three and the time the vaccine was first prepared. That 1943 in the original entry should really be 1944 also is apparent from page four of the notes wherein the last entry is for 27 January 1944. It is a common mistake for one to use the date of the old year during the first month of the new year.

Haagen inoculated another group of ten persons in Schirmeck on 10 October 1943 and 20 more on 27 January 1944 as seen from the entries on page four of the Crodel notes. Again on page five of the original, the entry for 14 October 1943 proves that ten persons were inoculated *for the third time* with 1.0 cc. of Haagen's new vaccine. That this entry refers to the virulent murine vaccine and not to the Gildemeister dead vaccine can be seen from the preceding entry which speaks of four control persons being inoculated three times with Gildemeister vaccine. This fact is further apparent by comparing the quantity of the injections plus the amount of distilled water used per tube of Haagen's new vaccine as set forth in other entries.

The entry for 25 May 1944 on page 7 of the Crodel notes states that 30 persons were inoculated in Natzweiler. "The inoculation took place during the incubation period (in a transport containing also sick people). Thirteen became sick in the period from 29 May to

9 June, of these, two died." Haagen had repeatedly testified that he performed no vaccinations after January 1944 in Natzweiler. Not only did he perform experiments after January 1944, but as proved by the entry quoted above, subjects died during the course of such experiments. By his own testimony Haagen proves that these entries deal with an experiment during which the subjects were artificially infected with typhus. Although the entry euphoniously states that the vaccinations "took place during the incubation period," Haagen testified, as had been repeatedly suggested by the prosecution, that it is impossible to know when persons are in the incubation period. The incubation period is that time between the infection and the first manifestations of the disease. Accordingly, it is impossible to know that a vaccination takes place during the incubation period unless the person has been artificially infected so that the date of infection is known. (*Tr. pp. 9701–2.*)

It is significant to note also that the chart on page 14 of Miss Crodel's notes uses the word "nachimpfung," meaning after-vaccination or re-inoculation, in connection with multiple vaccination experiments on two mice (both of which incidentally died), rather than the word "nachinfektion," meaning after-infection or subsequent infection, which was repeatedly used by Haagen in his letters concerning experiments on human beings.

Haagen testified that the defendant Schroeder visited him on 25 May 1944, the very day on which he was carrying out experiments in Natzweiler. (*Tr. p. 9632.*) While it is, of course, entirely possible that Schroeder may have visited Haagen on 24 or 26 May, rather than on 25, the fact is quite clear that in any event Haagen's very important experiments on typhus were discussed with Schroeder, contrary to the testimony of both men. The same is true with respect to the visit of the defendant Becker-Freyseng which took place shortly after that of Schroeder (*Tr. p. 9569*) and of Rose who visited Haagen both in 1943 and 1944. (*Tr. p. 9570.*) Haagen's statement that Becker-Freyseng came all the way from Berlin to discuss with him the procurement of rabbits and mice is as incredible as the rest of Haagen's testimony.

The defendant Schroeder testified that Haagen's research assignment was not secret and attempted to argue on that basis that nothing criminal could have happened. (*Tr. p. 3654.*) Without pausing to point out the stupidity of such an argument, suffice it to say that Schroeder's testimony was proved to be false by a list of research assignments issued by Schroeder's office in 1944. Haagen's typhus work was classified secret. (*NO–934, Pros. Ex. 458.*)

The testimony of the witness Nales corroborates the proof outlined herein above: That Haagen performed experiments to test the immunity of his vaccine by artifically infecting the subjects with typhus.

Nales, a Dutch citizen, was arrested by the Gestapo in 1940 for allegedly participating in a resistance movement. Although he was tried and acquitted, he was committed to Buchenwald concentration camp in April 1941. In March 1942 he was transferred to Natzweiler and in November 1942 he became a nurse in the Ahnenerbe experimental station there. (*Tr. pp. 10409–12.*) He stated that in the latter part of 1943, 100 gypsies were sent to Natzweiler from Auschwitz for Haagen's typhus experiments. Haagen found them physically unsuitable and thereafter an additional 90 gypsies were shipped in. These were divided into two groups and confined in separate rooms in the Ahnenerbe experimental station. One group was vaccinated against typhus. Approximately 14 days later, both groups were artificially infected with typhus. As a result, about 30 of the subjects died. Nales nursed the victims himself and saw the bodies. He talked to the subjects frequently and knows they did not volunteer, as indeed Haagen himself admitted on the stand. The gypsies were of various nationalities including Poles, Czechs, Hungarians, and Germans. (*Tr. pp. 10419–23.*)

* * * * * * *

Haagen's long continued activity in Schirmeck and Natzweiler can be clearly seen from his account book on research tasks on yellow fever and typhus. His work in Schirmeck began as early as 20 April 1943. He was placing telephone calls to Schirmeck late in August 1944, over a year after Haagen's alleged "last vaccination" there. These accounts were charged to the Medical Service of the Luftwaffe. (*NO–3837*, *Pros. Ex. 542.*) They were in such detail as to reveal on their face his activity in the concentration camps. (*NO–3450*, *Pros. Ex. 519.*)

Haagen admitted that by infection experiments one could mean only one of three things—(1) subsequent artificial infection with typhus, (2) vaccinations of large groups of people and then studying efficacy during a natural epidemic, and (3) Weil-Felix reaction tests carried out before and after a subsequent vaccination. (*Tr. p. 9601.*) He admitted that the prosecution's interpretation of "infection experiments" and "subsequent infection" was equally consistent with his own. (*Tr. p. 9611.*) He admitted that the word "nachimpfung" (subsequent vaccination) could have been used as well as "nachinfektion" (subsequent infection). (*Tr. p. 9611.*)

There are no refined questions of documentary interpretation presented to the Tribunal. The simple issue is whether Haagen committed crimes during the course of his experiments. There is no dispute that these were "experiments". Haagen repeatedly used the word in his own letters. There is no dispute that the inmates used as subjects were nonvolunteers, among whom were nationals of Ger-

man occupied countries. Haagen admitted as much. The documents and the testimony prove that a substantial number of subjects were killed during the course of these experiments. Against this overwhelming proof stands the testimony of Haagen and Rose, both of whom perjured themselves repeatedly on the stand. Indeed, their own testimony is the best circumstantial proof as to the criminality of the experiments. One does not gratuitously testify falsely. Those who fear the light of truth commit perjury. These men regard their oaths as lightly as they did the lives of their helpless victims.

The guilt of Rose and Haagen is the measure of the guilt of Schroeder. As a medical officer of the Luftwaffe, Haagen was subject to his orders. (*Tr. p. 3636.*) The office of Schroeder issued the research assignments pursuant to which these experiments were carried out. It provided the funds with which to carry them out. It received reports on the experiments and knew they were performed on concentration camp inmates. (*Tr. p. 1758.*) Schroeder was himself in Strasbourg at the very time the experiments were going on. His guilt is clear and unequivocal.

c. Selections from the Argumentation of the Defense

EXTRACT FROM THE CLOSING BRIEF FOR DEFENDANT ROSE

Statements Regarding the Question of Responsibility of the Defendant Rose for the Typhus Experiments of Professor Eugen Haagen in the Concentration Camps at Schirmeck and Natzweiler and the Question of the Participation in These Experiments

In order to reach a decision on the question of whether punishable behavior on the part of the defendant Rose is established, the Tribunal will have to examine the following: Did Professor Rose, in his capacity as consulting hygienist with the Luftwaffe Medical Inspectorate, have any commanding authority or the right and obligation of supervision at all over Professor Eugen Haagen at the University of Strasbourg? Did the defendant Rose participate in a penally relevant form in the experiments with typhus vaccine conducted by Haagen in the concentration camps at Natzweiler and Schirmeck? If so, the question of whether Haagen made himself liable to punishment or not can be left completely undecided.

As far as the first question is concerned, one thing is certain. Above all, Professor Haagen was a full professor at the University of Strasbourg at the time and also director of the Institute for Hygiene at this University. At the same time he was consultant on hygiene for the civil administration of Alsace. (*German Tr. p. 9526.*) During the war, in addition to this, he was a part-time consulting hygienist

with an Air Fleet. Finally, he applied for so-called research assignments for his experiments, including his typhus experiments, that is, in practice, financial aid.

First of all, it must be ascertained in which of his many capacities Professor Haagen conducted his experiments. In this connection the facts are perfectly clear. As a witness, Professor Haagen himself explained that he requested and received the research assignments which made possible his experiments, not as an officer of the Luftwaffe, but as director of a civilian research institute. As usual, therefore, the initiative was taken by the scientist. (*Becker-Freyseng 70, Becker-Freyseng Ex. 48; Tr. pp. 6251–3; German Tr. pp. 7941–2, 8399, 9583–5.*) The correctness of this description can be seen from the letter of Professor Haagen, submitted by the prosecution, addressed to the rector of the University of Strasbourg, dated 7 October 1943. (*NO–137, Pros. Ex. 189.*) In this letter Haagen requests his *civilian* superior, the rector of the University of Strasbourg, for special privileges for the Institute for Hygiene of the University (i. e., a civilian institution) based on the research commissions assigned to him.

The fact that the position of Professor Haagen was also interpreted by the Luftwaffe in this manner can be seen, for example, from the style of the letters addressed to him in matters relevant to his research and vaccine production assignments. They are not clothed in the manner of military orders, but possess the character of correspondence with a civilian office which was not subordinate to the Luftwaffe, either in the matter of receiving orders or of being under its supervision. A number of those invested with such research assignments have described to the Tribunal how they accepted these assignments for opportunistic reasons, e. g., to obtain priority grading and to protect their personnel from being drafted to military service. However, the fact that no subordinate relationship or supervisory right arose through the acceptance of such an assignment, can be seen likewise from the numerous statements of the recipients of such Luftwaffe assignments. (*Schroeder 30, Schroeder Ex. 22; Schroeder 31, Schroeder Ex. 23; Becker-Freyseng 79, Becker-Freyseng Ex. 63; German Tr. p. 6720.*) Obligations arose solely with regard to the computation of the money allowed, the reporting of any possible results achieved, as well as the mention of assistance in the event of a scientific publication.

Moreover, such financial aid is in no way limited to Germany but is common in many countries. No responsibility for possible errors and crimes, which the recipients might commit, can result from such financial assistance. As a matter of fact, Haagen never received a special individual assignment to carry out a certain series of experiments, but he was accorded, as per request, assistance for "typhus research." However, financial assistance for typhus research is something quite normal. Incidentally, Haagen not only utilized the means

put at his disposal by the Luftwaffe, but also contributions from the Reich Research Council and, most important, the personnel and equipment of his institute. Therefore, his typhus research was not a part of his military activities but was carried out within the scope of his civilian activities. Also, the fact that a reserve officer of the Luftwaffe, namely, Staff Physician [Stabsarzt] Graefe, appears as a collaborator in his typhus research work, alters none of the facts of the case. It is true that Graefe was a reserve officer in the same way as Haagen. However, his main profession was that of assistant in the Institute for Hygiene of the University of Strasbourg, and in this capacity he was subordinate to Professor Haagen who was, of course, the director of this institute. He was in no way subordinate to Haagen in the military sense, but to the Air Force Area VII. (*German Tr. p. 9718.*) Staff Physician Graefe, who was drafted into the Luftwaffe, was transferred, therefore, for purposes of further training, to the civilian institute where he worked as an assistant in peacetime. Such incidents occurred quite frequently in order to enable research activities in civilian institutes to be continued in wartime. As a result of this assistance given in respect of personnel, these civilian offices did not fall under the command and supervision of the military authorities.

The fact that Professor Haagen felt himself to be completely independent in his research activities can also be seen unequivocally from the fact that he procured further assistance from other offices disregarding his subordinate position with respect to the military. This means, without going through the military channels which were prescribed as binding in military matters. In his capacity as Oberstabsarzt of the Luftwaffe, he could not deal with the Reich Research Council without informing his superior thereof. Even less could he deal with the Reich Leader SS, with other offices of the SS, or, for example, with the Generalarzt Schreiber, who belonged to the army. He was, however, well able to do all of this in his capacity as director of the Institute for Hygiene of the University of Strasbourg. The correctness of this statement is shown most clearly in the important point, namely the procurement of experimental subjects in the concentration camps. In this case he did not conduct negotiations through military channels via the Medical Inspection of the Luftwaffe, but through his civilian channels, through the mediation of his university colleague, Professor Hirt, via the Ahnenerbe. He never informed his military superiors of these negotiations nor asked for their assistance therein, for as matters were, there was no reason to do so. The files show quite clearly that Professor Haagen had already conducted his experiments on prisoners in Schirmeck in May of 1943 in the same way as he continued them until the middle of 1944. In May of 1943, however, Haagen was—in a military sense—on leave of

absence, and as far as his activities were concerned he was in no way subject to the supervision of the Luftwaffe. His appointment as consulting hygienist did not ensue until after 14 July 1943, because the letter from the Reich Minister of the Luftwaffe dated 14 July 1943 was not addressed to Consulting Hygienist Haagen, but to Staff Physician [Stabsarzt] Haagen, who had been given leave to work in his institute. (*NO–297, Pros. Ex. 316.*) After his appointment as consulting hygienist, however, his research activities do not differ in any way from those which he performed before this appointment. They remained civilian research activities as formerly.

Further attention should be called to the fact that the Luftwaffe showed no special interest in Professor Haagen's research work. The only real interest of the Luftwaffe might have been in the actual production of vaccine. They tried to influence him in this connection, but without practical success. The Luftwaffe received no typhus vaccine from Haagen. His research activities had no connection with the wishes of the Luftwaffe regarding production; they were even in conflict with these interests.

The prosecution, it is true, has submitted a number of accounts from which it can be seen that telephone calls to Schirmeck and Natzweiler were paid for from Luftwaffe funds. (*NO–3450, Pros. Ex. 519; NO–3837, Pros. Ex. 542.*) Even if one were to consider the fact proved that these calls were in connection with his work in concentration camps, the whole nature of the accounts shows that Haagen treated his research work as a unit and divided the costs according to his own point of view among the different funds which had been placed at his disposal. The purpose served by the telephone calls cannot be inferred from the accounts alone. The arbitrary division of costs can be seen, for example, from the fact that a whole series of expenditures entered under "Influenza Account" referred to his typhus work. The department receiving the expense sheets had no possibility of checking in detail the purpose to which each enumerated item was put, and who the participants in the telephone conversations were.

Sufficient facts have already been produced to show that, in general, the Luftwaffe bore no responsibility for the research activities of the University Professor Haagen. Nevertheless, it is proposed to examine the question of whether a responsibility on the part of the defendant Rose for Haagen's research work can be deduced from the fact that Professor Rose was consulting hygienist with the Medical Chief of the Luftwaffe; because the prosecution is mainly attempting to construe responsibility on the part of the defendant Rose from (1) the existence of the research assignments given by the Luftwaffe; and (2) the fact that Professor Haagen belonged to the Luftwaffe as a reserve officer.

There can be no doubt that Haagen was the medical officer of the Luftwaffe. First of all, he was consulting hygienist with the Air Fleet 1 until the year 1941. Then he was given leave to work in his Institute for Hygiene until a certain time, which must have been shortly after 14 July 1943. Then he became consulting hygienist with the Air Fleet "Mitte" which was later renamed Air Fleet "Reich".

However, he did not conduct his experiments in his capacity as consulting hygienist. The tasks of a consultant did not include scientific research. They lay in other fields. Professor Haagen was never subordinate to the defendant Rose even in this military position as consulting hygienist of an Air Fleet. On the other hand, the defendant Rose had neither commanding authority, and neither the right nor the duty of supervision as far as Haagen was concerned.

From a military standpoint Haagen was subordinate to his air fleet physician in every respect. Incidentally, the defendant Rose had no superior rights nor supervisory obligations either with respect to Professor Haagen or to all the other consulting hygienists of the Luftwaffe. His official duties were exclusively limited to consultations with the Medical Inspector, that is, the Chief of the Medical Service of the Luftwaffe. (*Compare Rose 6, Rose Ex. 6; Rose 7, Rose Ex. 7; Rose 8, Rose Ex. 29; Handloser 12, Handloser Ex. 12; Tr. pp. 2987, 6259; German Tr. p. 3346.*)

There is no need to comment further on the fact that the defendant Rose particularly did not possess such rights and obligations with respect to Haagen in his capacity as a research scientist and director of the institute of the University of Strasbourg, which was in no way subordinate to the Luftwaffe. The correctness of these statements was unequivocally confirmed on the witness stand during my examination, not only by Professor Haagen himself (*German Tr. pp. 9679–80*) but also by the defendant Schroeder, who, after all, should know, having been the former Chief of the Medical Service of the Luftwaffe. (*German Tr. p. 3734.*) These facts should be sufficient to show that the defendant Rose had neither the power of command and neither the right nor obligation of supervision over Professor Haagen.

We still have to examine the second question of the possible participation of the defendant Rose in Professor Haagen's research work in the concentration camps at Natzweiler and Schirmeck.

It is incontestable that the defendant Rose was cognizant of the fact that the Luftwaffe gave several research assignments to Professor Haagen, and that the reports issued by Haagen within the framework of these assignments were sent to him for his information. However, these reports never contained details from which a criminal activity on the part of Professor Haagen could have been inferred or assumed. Even the prosecutor, Mr. McHaney, during his interrogation of the defendant Rostock, expressly declared that even he

doubted whether Haagen would have disclosed such details. (*German Tr. p. 3346.*) This interpretation corresponds completely with the facts. Professor Haagen's reports consisted purely of scientific research work which was designated for publication. No reader could gather that they were based on illegal experiments. A plan of experiments was never submitted by Haagen in detail.

As has already been stated, it is true that the defendant Rose knew of the research commissions which had been assigned to Professor Haagen by the Luftwaffe. According to the nature of his official position, however, he exercised no influence on the assignment of such commissions. There were no misgivings about the assignments as such, for nothing of a suspicious or objectionable nature could be seen from their formulation. (*Becker-Freyseng 37*, *Becker-Freyseng Ex. 23.*)

This situation is not altered by the fact that the defendant Rose visited Professor Haagen twice in Strasbourg during the course of the war, the first time in the year 1943 and the second time in 1944. Clearly outlined assignments were dealt with on both occasions. During the first visit the question was discussed whether Haagen wished to reassume in addition the functions of a consulting hygienist of an Air Fleet. The second visit resulted from the desire of the medical inspection of the Luftwaffe that Haagen should comply with the request repeatedly made to him, to take up the production of vaccine. This second visit further served the purpose of discussing the question of a particularly expensive but necessary installation for reproducing various climates for the rabbit hutch in Professor Haagen's Institute.

The reasons just mentioned for these two visits will be substantiated by documents submitted. The question regarding Professor Haagen's assumption of the functions of a consulting hygienist with the Air Fleet "Mitte" is mentioned in the letter from Rose addressed to Haagen, dated 9 June 1943, (*NO–306*, *Pros. Ex. 296*) the procurement of the climate installation in Document NO–2874, Prosecution Exhibit 520. Moreover, the first of these two documents just mentioned shows quite clearly that the defendant Rose had no influence on the assignment of research commissions to Haagen. In answering a question from Haagen relevant to this matter, Rose had to limit his reply to the statement that the competent expert was absent.

In examining the relationship between Rose and Haagen, their further exchange of correspondence must also be mentioned.

Rose met Haagen when they were both division chiefs at the Robert Koch Institute in Berlin from 1937 until 1941. Both were specialists in the field of research into infectious diseases. Haagen specialized in virus diseases including typhus. The defendant Rose specialized in tropical diseases, parasitology, and vermin control. This fact ex-

plains the existence of a scientific private correspondence, part of which can be found in the files. According to the testimony of the witness, Olga Eyer, this correspondence was extremely cursory and consisted of only five to six letters from 1941 to 1944, during which time Fraeulein Eyer was Haagen's secretary. (*German Tr. p. 1781.*)

The prosecution is obviously in possession of the entire exchange of correspondence between Rose and Haagen. The letters the prosecution has submitted from this correspondence deal with two subjects: The first group consists of the two letters of 5 June 1943 and 9 June 1943 (*NO–305, Pros. Ex. 295; NO–306, Pros. Ex. 296*) which contain an answer to the questions on the production technique of typhus vaccine. Rose, who himself is not a specialist in this field, had requested technical information and had received it. (In passing, it should be stated that the 30 to 40 persons mentioned in this exchange of correspondence signified the required manpower figure and not possible experimental subjects, as the prosecution asserts.) (*German Tr. p. 9063.*)

The principal letter of Haagen to Rose, dated 4 June 1943, which is mentioned in Rose's reply dated 9 June 1943, would clear up the matter absolutely unequivocally. Unfortunately, it has not been submitted by the prosecution.

The second part of the correspondence between Rose and Haagen concerns the attitude of Haagen to the Copenhagen vaccine. Among others, Rose had also informed Professor Haagen, one of the leading German typhus-research scientists, about the result of his conversation with Dr. Ipsen in Copenhagen, as can be seen from the distribution of the report on the Copenhagen trip. (*Rose 22, Rose Ex. 21.*) This second part of the correspondence developed as a result of the transmission of this strictly scientific information, and the following letters from it were introduced by the prosecution during the trial:

Letter from Haagen to Rose dated 4 October 1943 (*NO–2874, Pros. Ex. 520*).

Letter from Haagen to Rose dated 29 November 1943 (*NO–1059, Pros. Ex. 490*).

Letter from Rose to Haagen dated 13 December 1943 (*NO–122, Pros. Ex. 298*).

Professor Rose furnished a detailed explanation of this exchange of correspondence during his direct examination. At the time he was only in possession of his aforementioned letter to Haagen dated 13 December 1943, whereas the two other lettters were still withheld by the prosecution. Although, as a result of this, he was put in the difficult position of having to testify regarding an exchange of correspondence which took place four years ago, only a part of which he had available for reference, the correctness of his statements was completely confirmed in the essential points by the two other letters

which were not introduced until later in the trial. (*Tr. p. 6281.*) It can be seen quite definitely from the first paragraph of Haagen's letter to Rose dated 4 October 1943 that the actual interest of the defendant Rose lay in inducing Professor Haagen to produce a proven vaccine.

The question hinged on the climate installation which was necessary for the production of the Giroud vaccine from the lungs of rabbits. It was only necessary to establish an additional production plant for the Luftwaffe because the vaccine concerned was obtained from dead typhus bacilli and had been introduced for some time. At the end of his letter Professor Haagen once more refers to this purely technical question of production. In his letter Haagen also expresses his opinion and valuation of the Ipsen method. The penultimate paragraph of this letter is particularly important. It describes the great importance Professor Haagen attached to the serological experiments in weighing the results of the vaccination and of the state of immunity. He writes in this connection:

> "I generally regret that, in judging immunity, much too little consideration is being given to the serological reaction. My experiments with the nonphenolized vaccine particularly proved again that the titer of agglutination should be considered. No doubt, much greater importance must again be attached to the serological result when judging the state of immunity in accordance with our present opinion on the course of the infection of the virus diseases, especially in their initial stages." (*NO–2874, Pros. Ex. 520.*)

At the end of his letter, Haagen suggests that his own vaccines and the Ipsen vaccine be compared by examination. This is unequivocal proof of the proposal having been made by Haagen. The defendant Rose had not the slightest reason to assume that Professor Haagen intended to perform an immunity check with a virulent virus causing disease in human organism, since the Professor particularly stressed the importance of serological methods when testing the condition of immunity. On the contrary, he had to assume that Professor Haagen considered such an infection superfluous.

The prosecution objects to the fact that Haagen, when discussing the planned experiments in his correspondence with Rose, used such terms as "experiments of infection" and "subsequent infection." But Professor Rose knew that Haagen was engaged in the development of live vaccine nonpathogenic to human beings. He even mentioned this in his lecture on typhus and malaria at Basel in 1944. (*Rose 25, Rose Ex. 31.*) Every expert knows that the application of living virus for the purpose of protective vaccination is a procedure of infection.

He was aware that Haagen worked on the further development of the method evolved by the Frenchman Blanc. This, too, can be

found in the same passage of his Basel lecture mentioned above. The fact that the term "subsequent infection" was used by Professor Haagen in distinguishing protective vaccinations from live and weakened vaccines could in no way surprise or startle him. (*Rose 59, Rose Ex. 59; Rose 60, Rose Ex. 60; Tr. pp. 6295–6; German Tr. 9639.*)

It must be pointed out in this connection that the notes of the Natzweiler camp physician himself distinctly describe the vaccination which Haagen had occasionally called "subsequent infection," as "vaccination". His entries of 22 March 1944 state that "the actual 'vaccination' will now be carried out after two protective vaccinations have taken place." (*German Tr. p. 9782.*)

The report taken from the Tropical Diseases Bulletin which I introduced in this trial shows, however, quite clearly that these infections were not dangerous and could, in the main, be controlled. (*Rose 58, Rose Ex. 58.*)

This report states that the Blanc live typhus vaccine was used by the French Government in Algeria in 3.5 million cases to combat typhus, and that as a result of these protective vaccinations, real typhus illness was found in only 5–6 cases per thousand. If one compares this figure of 5–6 per thousand with the total number of the vaccinations, it appears that in the course of this vaccination action carried out by the French Government, 17,500 to 21,000 cases of typhus illness took place as a result of vaccination. This result may justly give weight to the assumption that the French Government considered these incidents a justifiable and tolerable risk in view of the extent of the threatened danger.

It would be unfair to blame the defendant Rose for having taken no steps at all on learning that another research scientist, namely Haagen (who was not subordinated to him) was using a method which he knew was widely practiced. He had much less reason to do so since it was Haagen who tried by preliminary vaccinations with dead vaccines to avoid and to reduce the extent of the vaccination reactions and the danger of sickness as a result of the vaccination. Haagen's reports and publications only deal with this object of a preliminary vaccination with dead vaccines and of the subsequent vaccination with a live, virulent vaccine nonpathogenic to human beings (subsequent infection). This field, with which he was not so familiar, was described in detail by the defendant Rose in his direct testimony. When interrogated, Professor Haagen, as the actual originator of the plans, substantially enlarged and in some instances corrected this description.

It does not seem feasible to me to classify as criminal, experiments which tend to make more bearable and less dangerous a recognized method already applied on millions of people.

In addition, there is no reply from the defendant Rose to this letter from Professor Haagen of 4 October 1943. It is not certain whether he actually received it. However, the possibility that he did receive it cannot be denied.

Chronologically, the next letter in this correspondence is Haagen's letter to Rose of 29 November 1943. (*NO–1059, Pros. Ex. 490.*) The defendant Rose cannot remember ever having received this letter.

It is true that after this letter had been submitted to him by the prosecution during cross-examination, Professor Rose assumed that he must have received it, judging by the date and the conditions of the postal service at that time. (*Tr. p. 6428.*) However, he was misled when making this statement by a mistake in the reproduction. Whereas this letter is actually dated 29 November 1943, the date on the letter is given as 29 November 1942 in the German mimeographed copies distributed by the prosecution in the course of the cross-examination. Thus it was sent at a time when large quantities of mail were destroyed in trains or at post offices by the heavy air raids on German towns and communications. According to the resultant state of affairs, it is probable that he actually did not receive this letter. In this very letter Professor Haagen mentions that 18 of the 100 inmates had already died en route. The answers the defendant Rose gave on cross-examination before this letter had been submitted to him show clearly that he could not remember such information. (*Tr. p. 6424–5.*) He would hardly have been able to forget such a gruesome report if he had actually received this letter.

It also cannot be stated that the defendant Rose could only have written his letter to Haagen of 13 December 1943 (*NO–122, Pros. Ex. 298*) after having received Haagen's letter of 29 November 1943. Prosecuting counsel, Mr. McHaney, however, alleged this when cross-examining Rose (*Tr. p. 6431*) thus causing confusion in the mind of the defendant Rose. For, in reality, Rose's letter of 13 December 1943 is the reply to a further letter from Haagen dated 8 December 1943, as appears clearly from the introductory sentence in Rose's letter of 13 December 1943. From this state of affairs it can only be concluded that either Professor Haagen did not mail this letter at all—perhaps in view of the information contained therein about the unfavorable conditions of health of the inmates—or else the defendant Rose did not receive the letter because it was destroyed along with a lot of other mail of the same date in the heavy air raids. The prosecution, no doubt, would not have failed to introduce this letter into evidence if the defendant Rose had replied to Haagen's letter dated 29 November 1943. Professor Haagen's suggestion in his letter of 4 October 1943 that the Copenhagen vaccine be tested, is again dealt with in Rose's letter of 13 December 1943. In this letter Rose exclusively speaks of the testing of vaccine, without mentioning infections

at all. In the letter a parallel is drawn to the Buchenwald typhus experiments only insofar as he indicated the advantage of the simultaneous testing of several vaccines. On direct examination, that is, prior to the submission of other documents which give greater clarification to the whole matter, the defendant Rose stated quite clearly and in agreement with subsequent evidence and the later testimony of Haagen, that the point in question was the application of the Copenhagen vaccine for preliminary vaccination, aiming at the weakening of the vaccination reaction in connection with subsequent vaccination with a live, avirulent vaccine nonpathogenic to human beings.

The two biologically parallel conditions which are obvious to every layman, one, the weakening of a reaction following vaccination with a live vaccine, and two, the weakening of a natural sickness, were explained in detail by Professor Rose on direct examination. (*Tr. p. 6281.*)

Finally, it must be emphatically pointed out that the plan discussed in this correspondence to test the effect of the Copenhagen vaccine on the weakening of vaccination reactions followed by the application of the new live avirulent typhus vaccine pathogenic to human beings as compared with other vaccines, was not carried out at all. After Haagen had succeeded in weakening the reaction in another way, namely by long storage, he was no longer interested in the Copenhagen vaccine. (*Becker-Freyseng 62**; *German Tr. 9614–5.*)

Therefore, there only remains the examination of the question of whether the defendant Rose was responsible for Haagen's activities, knowing that Professor Haagen had performed experiments on inmates with live avirulent typhus vaccines still in the testing stage. Apart from the correspondence discussed just now (part of which did not deal with experiments at all, while the other part referred to the discussion of an experimental plan which had been temporarily under consideration), the defendant Rose was only informed of Haagen's activities through the latter's reports which were sent to him for information and comments by the chief of the Medical Service of the Luftwaffe, through official channels. These, however, either contained simple information about the fact that Professor Haagen had asked for and received a commission for research, or else they were scientific publications containing nothing to which objections could be made.

The prosecution concluded from the letter of the Luftwaffe Medical Academy, dated 7 July 1944 to the Luftlottenarzt Reich [Air Fleet Physician Reich] that Haagen must have infected human beings with virulent typhus bacilli which were pathogenic to human beings because "control persons" were mentioned in this letter. (*NO–128, Pros.*

*Not introduced in evidence.

Ex. 307.) This letter approves the publication of Professor Haagen's work and that of his assistant Crodel: "Experiments with a New Dried Typhus Vaccine." This work which had been submitted to the defendant Rose prior to publication actually shows clearly that these controls were meant to be a comparison of the results of serological examinations on patients from the camp epidemic with the serological examinations on persons protectively vaccinated. Haagen, whose main interest was in serological examinations, as already mentioned, had no reason whatsoever to perform artificial infections since the epidemic in the concentration camp at Natzweiler offered an abundance of persons for the purposes of comparison.

Finally it must be stated, in addition, that the experimental plans discussed in Haagen's letter of 27 June 1944 to Professor Hirt never became known to the Luftwaffe Medical Inspectorate nor to Rose. (*NO–127, Pros. Ex. 306.*) Moreover, the general development of the situation (Haagen's absence from Strasbourg, evacuation of the camp at Natzweiler, etc.,) shows that this planned experiment could never have been performed. The truth of this statement is further clearly proved by the testimonies of the witnesses Broers and Nales, according to which no more typhus vaccinations took place after April 1944.

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*EXTRACTS FROM THE FINAL PLEA FOR DEFENDANT MRUGOWSKY**

The prosecution stated in its plea: If Grawitz were still alive, he would sit here as one of the principal defendants on the defendants' bench. This is certainly true. But Grawitz passed sentenced on himself. And what does the prosecution do? It indicts Mrugowsky instead of Grawitz. It does not consider in its arguments that Mrugowsky was not a private person but a medical officer in the Waffen SS, that is a soldier, and that Grawitz and Himmler were his military superiors. It speaks of conspiracy but it does not examine thereby to what extent a conspiracy may be conceived when military subordination plays its part. In its summing-up, both written and oral, the prosecution merely submitted the original allegations of the indictment. It completely ignored the evidence produced by the defendants, and merely pointed out a little scornfully that this evidence was mostly composed of affidavits. But this is no fault of the defendants. They would have preferred to be able to produce counter-proof taken from their own records. But all the documents belonging to the defendants and to other offices, from which the prosecution evidence emanates, are in the hands of the prosecution. It merely submitted those parts of the documents which, torn from their context,

*Final plea is recorded in mimeographed transcript, 17 July 1947, pp. 11049–11074.

seem to incriminate the defendants. On the other hand, the prosecution made it impossible for the defendants to find the records connected with the prosecution evidence which would ensure a complete elucidation of the true facts.

I would ask the Tribunal to consider in particular this difficult position of the defendants with regard to evidence. It places particular emphasis on the old legal principle that the defendant is considered not guilty until his guilt has been proved, and in doubtful cases the Court is to decide in favor of the defendant.

The charges against Mrugowsky are composed of three groups:

(1) The typhus experiments and the aconitine execution which did not concern volunteers. In these cases the Tribunal will have to consider whether state emergency contended by Mrugowsky really existed, and if so, if the typhus experiments and the aconitine execution were justified. If the answer is in the affirmative, then neither the typhus experiments nor the aconitine execution is criminal, since there is no objection raised as to the manner in which they were performed. If the question is answered in the negative, then the next consideration is, if and to what extent Mrugowsky participated in them and if he is responsible under criminal law.

(2) The second group consists of the actions of Ding which he performed on his own initiative, e. g., his participation in a killing by phenol and the poison experiment on 6 persons.

(3) The third group consists of the protective vaccinations for which volunteers were available, according to the evidence produced by the prosecution.

The defendant Mrugowsky is indicted first of all for his alleged participation in the typhus experiments at Buchenwald and in other medical experiments. In its submission of evidence, the prosecution treated these experiments as criminal and as experiments performed by doctors. During the examination of the experts, Professor Leibbrandt and Professor Ivy, the prosecution also treated these medical experiments as experiments performed by doctors and asked the experts if these experiments were to be considered as admissible from the point of view of medical ethics.

I am convinced that the experiments on which the prosecution bases its indictment were in no way experiments which originated from the initiative of the executive physicians themselves. The experiments were a form of research work necessitated by an extraordinarily pressing state emergency, and ordered by the highest competent governmental authorities.

Professor Ivy also admitted that there is a fundamental difference between the physician as a therapeutist and the physician as a scientific research worker. When asked by Dr. Tipp: "So you admit that to the physician as a therapeutist, the physician who cures, other rules

and, therefore, other paragraphs of the oath of Hippocrates apply," he gave the answer: "Yes, I do, very definitely."

Consequently, experiments on human beings, performed for urgent reasons of a public character and ordered by the competent authorities of the state, cannot simply be considered as criminal merely because the experimental persons chosen by the state for the research work were not volunteers.

The prosecution ought to have brought additional evidence with regard to the individual experiments to prove why they were criminal, apart from the fact that the experimental persons were not volunteers.

The largest space in the indictment against Mrugowsky is taken up by the typhus experiments at Buchenwald. The prosecution does not contend that Mrugowsky participated in them personally, but I further think I have proved in my written arguments that he neither suggested nor ordered nor controlled these experiments; that he did not further them nor even approve of them.

Nevertheless for precaution's sake, I also must prove that the experiments in question were not illegal and that under no aspect can they be considered as criminal since they were caused by an urgent state emergency. This proof can be produced in a particularly impressive manner in the case of the typhus experiments.

In the Flick trial,* the prosecution submitted Document NI–5222 which I have offered to the Tribunal. (*Mrugowsky, Ex. 99.*) This document, which comes from the Labor Office Westphalia and is dated 3 February 1942, states that according to information from military quarters, until recently the number of Soviet prisoners of war dying of typhus was still 15,000 *daily*.

I think I need no longer emphasize that a most pressing state emergency is considered to exist if from one single epidemic there are, I repeat, 15,000 deaths daily in the camps for Russian prisoners alone.

On the other hand, the prosecution stated that from the beginning of 1942 until the beginning of 1945, a total of 142 persons died as a result of the typhus experiments at Buchenwald. I place these two figures intentionally at the beginning of my argument. They show that during the entire period of the experiments in Buchenwald, the number of fatalities amounted to one percent of the toll taken *every day* by typhus in the *Russian prisoner camps alone* in winter 1941–42. In addition to these victims in the Russian P. W. camps, one has to consider the enormous number of people who died of typhus among the civil population of the occupied eastern territories and the German Armed Forces.

It is clear that under these conditions drastic measures had to be taken. When judging the typhus experiments carried out in the concentration camp Buchenwald one must not forget that Germany was

*United States *vs.* Friedrich Flick, et al. See Vol. VI.

engaged in war at the time. Millions of soldiers had to give up their lives because they were called upon to fight by the state. The state employed the civil population for work according to state requirements. In doing so it made no distinction between men and women. The state ordered employment in chemical factories which was detrimental to health. It ordered work on the construction of new projectiles which involved considerable danger. When unexploded enemy shells of a new type were found at the front, or unexploded bombs of new construction were found after an air raid at home, it ordered gunnery officers to dismount such new shells or bombs with the aid of assistants in order to learn their construction. This implied great danger. Then the fillings of the new shells and bombs had to be examined by analytical chemists to determine their composition. In certain cases this work was detrimental to the health of the chemists and their assistants and always considerably dangerous.

In the same way the state ordered the medical men to make experiments with new weapons against dangerous diseases. These weapons were the vaccines. The fact that during these experiments not only the experimental persons but also the medical men were exposed to great danger was proved when Dr. Ding infected himself unintentionally at the beginning of his typhus experiments and became seriously ill with typhus.

With regard to such medical experiments, one has to agree on principle with the opinion of Professor Ivy and Professor Leibbrandt that such experiments may only be performed on volunteers. But even Professor Ivy admitted that there is a difference between those cases in which a scientific research worker starts such experiments on his own initiative and the cases in which the competent organs of the state authorize him to do so. He answered the question of whether the organ of the state is responsible in the affirmative; but he added that this has nothing to do with the moral responsibility of the experimenter towards the experimental subject.

If the experiment is ordered by the state, this moral responsibility of experimenter towards the experimental subject relates to the way in which the experiment is performed, not to the experiment itself.

The prosecution did not contest that the experiments at Buchenwald were carried out correctly. By way of precaution, I offered evidence for the correct execution in my closing brief.

In answer to a question by Dr. Sauter, Professor Ivy observed that he did not think the state could take the responsibility of ordering a scientist to kill a man in order to obtain knowledge.

The case with the typhus experiments is different. No order was given to kill a man in order to obtain knowledge. But the typhus experiments were dangerous experiments. Out of 724 experimental persons, 154 died. But these 154 deaths from the typhus experiments

have to be compared with the 15,000 who died of typhus *every day* in the camps for Soviet prisoners of war, and the innumerable deaths from typhus among the civilian population of the occupied eastern territories and the German troops. This enormous number of deaths led to the absolute necessity of having effective vaccines against typhus in sufficient quantity. The newly developed vaccines had been tested in the animal experiments as to their compatibility.

I explained this in detail in writing.

The Tribunal will have to decide whether, in view of the enormous extent of epidemic typhus, in view of the 15,000 deaths it was causing daily in the camps for Russian prisoners of war alone, the order given by the government authorities to test the typhus vaccines was justified or not. If the answer is in the affirmative, then the typhus experiments at Buchenwald were not criminal, since the prosecution did not contest that they were carried out according to the rules of medical science. In this case, any responsibility of Mrugowsky for these experiments is excluded. If, on the other hand, the Tribunal answered the question in the negative and declared the typhus experiments at Buchenwald to be criminal, then examination would have to be made as to whether Mrugowsky was responsible for them in any way.

In my written statement I explained in detail that Block 46 at Buchenwald, where the experiments were carried out, was not subordinate to Mrugowsky, but that Dr. Ding worked under the immediate orders of Grawitz. Out of the extensive evidence I offered to prove this fact, I only want to stress, one, the letter addressed by Grawitz to Mrugowsky in which Grawitz declared explicitly on 24 August 1944 that he gave his *consent* for the series of experiments he mentioned in the letter to be performed in Block 46 at Buchenwald, and two, the letter addressed by Mrugowsky to Grawitz on 29 January 1945 in which he suggests the testing of a jaundice virus and writes: "Please obtain permission from the Reich Leader SS to perform the infection experiments *in the typhus experimental station of the concentration camp Buchenwald.*"

These two letters demonstrate that even in autumn 1944 and early in 1945 Mrugowsky could still only have performed a series of experiments in Block 46 with special permission. This refutes the assumption of the prosecution that Block 46 was subordinate to Mrugowsky.

But above all, I want to stress again the affidavit given by Dr. Morgen on 23 May 1947 in which he stated that when he investigated the occurrences in Block 46 at Buchenwald, Dr. Ding showed him an order signed by Grawitz in which Ding was commissioned explicitly to carry out the experiments.

Dr. Morgen has further stated that he had to report to Grawitz personally about the result of his investigations as an examining magistrate at Buchenwald. The results here, too, according to the

affidavit given by Dr. Morgen showed that Grawitz ordered the experiments. On this occasion he called Dr. Ding "his man," and said he would be very sorry if the investigation caused any charges to be brought against Dr. Ding, since he had employed him for the experiments. Morgen emphasized that the name of Mrugowsky was not mentioned in the course of his conversations with Ding and Grawitz. This clearly shows, I think, that Mrugowsky had nothing to do with Block 46 at Buchenwald. As further evidence that Ding was actually subordinate to Mrugowsky in Block 46, the prosecution referred to the sketches designed by Mrugowsky. (*NO–416, Pros. Ex. 22 and NO–417, Pros. Ex. 23.*) These pictures show that the Division for Typhus and Virus Research in Buchenwald was subordinate to Mrugowsky; Mrugowsky does not deny this. Division for Typhus and Virus Research was only Block 50. Block 46 was called as formerly "Experimental Station of the Concentration Camp Buchenwald." Mrugowsky's letter just quoted shows this. Block 46 was merely attached to the Division for Typhus and Virus Research without establishing thereby any relationship of subordination to Mrugowsky. This is described and proved in detail in my closing brief.

From the two sketches designed by Mrugowsky, showing that the Division for Typhus and Virus Research was under his control from its establishment to the end of the war, nothing can be deduced, therefore, about whether he was Ding's superior in Block 46.

This fact and the further evidence brought in my closing brief demonstrate that Block 46 at Buchenwald was not subordinate to Mrugowsky. Therefore, Mrugowsky bears no responsibility for the typhus experiments in Block 46.

In this connection, I want to emphasize that Mrugowsky never denied that he knew the typhus experiments at Buchenwald were ordered by Grawitz and carried out by Dr. Ding. He never denied that he saw, for instance, the report about the series I of the experiments, which he rewrote in his letter of May 5, 1942, and that he saw Ding's essay about acridine which Ding sent to Grawitz for approval to publish 18 months after the experiments were completed, and which Grawitz then gave to Mrugowsky to return to Ding. But from this knowledge, no responsibility on the part of Mrugowsky can be deduced for the typhus experiments. The experiments were ordered by Himmler and Grawitz as his highest military superiors. As a medical officer of the Waffen SS, Mrugowsky had no possibility at all of opposing these experiments ordered by his superiors. When Grawitz first suggested the experiments, he resisted at once, and induced him to ask for a decision from Himmler as the highest superior. Himmler decided against Mrugowsky. Under these conditions Mrugowsky could do no more. His opposition, however, resulted in the fact that he was

not commissioned with the experiments, but that Ding received the order for execution.

Nor has the prosecution brought any evidence to show that Mrugowsky subsequently intervened in any way in the typhus experiments at Buchenwald; that he furthered them, or participated in them in any way. On account of the fact that Mrugowsky knew about the typhus experiments, no charge can be made against him under criminal law, because neither in law nor in fact had he any possibility of preventing the experiments or enforcing their cessation later on.

The prosecution further based its charge against Mrugowsky on the depositions of several witnesses to the effect that he had been Ding's chief in Block 46, also insofar as the experiments carried out by Ding in Block 46 were concerned. I have energetically contested this. All the statements produced by the prosecution in this respect originate from Ding. None of these statements comes from anybody who worked in Block 46 himself. It is significant that the prosecution has not been able to submit one single order given by Mrugowsky to Ding for the execution of typhus experiments, although its witness, Balachowsky, stated that Kogon had managed to collect and secure extensive evidence which he had handed over to the American Army. If there had been any written orders from Mrugowsky to Ding, the latter would certainly not have destroyed them for the sake of his own protection, and Kogon would have given them to the American Army with his other documents. It is true that the witness Kogon (whose unreliability I shall prove later) maintains that Mrugowsky gave mostly only oral orders to Ding. But he further testified that from the year 1943 onwards, Ding was no longer satisfied with oral orders from Mrugowsky but asked for them to be given in writing. In spite of this, not a single written order from Mrugowsky to Ding concerning the execution of a series of typhus experiments was produced.

The only witness who might be able to state from his own knowledge anything about the order given to Ding in respect of the typhus experiments is the witness Dr. Morgen. I just indicated that Morgen saw the order given by Grawitz to Ding for the execution of the typhus experiments, and that Grawitz personally told Dr. Morgen that Ding was his man at Buchenwald and said he employed him there.

The error of the witnesses, who stated that Mrugowsky had been Ding's chief, results from the fact that Ding was dependent on Mrugowsky in respect of the production of vaccine in Block 50 and also concerning his activity as a hygienist. I proved in my closing brief that from 1942 to 1945 Ding was only working on the typhus vaccine experiments for about 2½ months, if one adds up all the hours he worked on them. All the rest of his activity in approximately 3 years was devoted to the vaccine production and the work of a hygienist, that is, work in which he was Mrugowsky's subordinate. It is com-

prehensible that during the approximate period of 33 months when he worked for Mrugowsky, he received many more orders from him than from Grawitz for the execution of the 13 typhus vaccine experiments. It is, therefore, comprehensible that the main part of his correspondence under these circumstances was carried on with Mrugowsky.

In consequence of the description of the prosecution which hardly spoke of anything except the typhus vaccine experiments, and only produced documents thereon, the impression was certainly given that the typhus vaccine experiments were Ding's main activity at Buchenwald. That is not so. In his main activity at Buchenwald, Ding was Mrugowsky's subordinate. Therefore, because his main correspondence was with Mrugowsky and he called Mrugowsky his superior, one cannot assume that also in respect of the typhus vaccine experiments there was some connection between Mrugowsky and Ding, and that Mrugowsky participated in these experiments in any way or was responsible for them. The prosecution did not deny that such double subordination, as it existed between Ding on the one hand and Grawitz and Mrugowsky on the other, is possible in a military organization and happened frequently. I can refer also in this respect to the statement in my closing brief.

The testimony of the witness Kogon and Ding's diary (*NO–265, Pros. Ex. 287*) are the chief items of evidence submitted by the prosecution against Mrugowsky. This is why, in my closing brief, I explained in detail that neither Kogon's statement nor the Ding diary furnish any substantial proof. As to Kogon's testimony, I want to emphasize once more the principal points:

Kogon described on the witness stand the dramatic circumstances under which he pretends to have saved the so-called Ding diary. I needn't point out that the particular occurrences which happened when he saved the diary would have impressed him so much that he would not forget them if his statement were true. Therefore, he couldn't possibly give a different description of this event on several different occasions. In fact, in the doctors' trial and in the Pohl trial,* he gave two reports about the way he allegedly saved the diary. These reports differ so fundamentally and in a manner which could only be possible if his contention that he saved the diary is untrue, and the descriptions he gives of this event are pure invention.

Kogon stated in the doctors' trial that Ding sorted the secret documents to be burned in Block 46. While Ding and Dietzsch went into the adjoining room for a moment, he threw the diary and a heap of papers into a box to save them from destruction. Two days later he had told Ding that he had saved the diary and a heap of other papers

*United States *vs.* Oswald Pohl, et al. See Vol. V.

from being destroyed and received permission to fetch them from Block 46; otherwise, he wouldn't have been able to get them out. He fetched them and kept them ever since. This description is quite plausible and would be hard to refute if there was not Kogon's own testimony in the Pohl trial.

In the Pohl trial, the same Kogon testified about three months later that he was standing with Ding and Dietzsch at the same table when the secret documents were sorted for destruction. Suddenly Ding pushed the diary and other papers towards him. He took them and carried them to Block 50, together with Ding. Ding did not know at this time that Kogon had the diary and the other documents with him, but he told Ding this on the same day.

A more striking contradiction than these two statements about the saving of the diary is hardly possible. If Kogon had really saved the diary in the way he described in the doctors' trial, then the moment when he threw the diary into the box and his reflections during the two days before he told Ding that the diary had not been burned would have remained indelibly in his memory. He would have remembered the way from Block 46 to Block 50 to fetch the diary and the way back with the diary so well, that a different description would be impossible. Also, if the preservation of the diary had occurred in the way described by Kogon in the Pohl trial, it certainly would have been recollected by him so clearly that a different description would also be impossible. So the two descriptions about the preservation of the diary, differing so fundamentally from each other, can only be explained in two ways. Either Kogon's statement is untrue and he didn't save the diary at all—in this case, if he told the Tribunal a falsehood about such an important point, then his whole testimony is unreliable—or Kogon must have such a bad memory that his contradictions in his testimony can be explained therefrom. In this case, too, his entire testimony would have no probative value on account of his bad memory.

The Dietzsch testimony submitted by me speaks against the correctness of Kogon's statement on the saving of the diary. Dietzsch states that during the destruction of the secret documents in Block 46 Ding tore up the diary in his presence and threw it into the lighted stove where it was burned. Dietzsch declared explicitly that Ding made sure that all the documents were entirely burned after the destruction of the papers was finished.

I should say that Dietzsch's statement combined with the contradiction between the two statements of Kogon's proves that what Kogon said about the saving of the diary is a falsehood.

In my closing brief I dealt in detail with still further points on which the statements made by Kogon in the doctors' trial and in the Pohl trial contradict each other in a similarly marked manner con-

cerning the preservation of the diary. It will not be necessary to repeat all these arguments here. I should like to refer the Tribunal to them.

The second main evidence of the prosecution against Mrugowsky is the diary which is said to have been saved. The two fantastic descriptions of the saving of the diary given by Kogon are unreliable. Therefore, Dietzsch must be believed. He said that Ding burned the original diary of Block 46 in his presence. This statement is supported by the opinion given by the handwriting experts, Zettner and Nastvogel, treated in detail in my closing brief.

In the meantime the prosecution declared while discussing the Beiglboeck evidence that it could have handwriting examined to determine the date of its origin at an institute in Frankfurt and also documents investigated in every way. The prosecution thereupon stressed explicitly that I also had the Ding diary examined by experts.

The Ding diary is of importance for the prosecution for the charges against several defendants. Therefore, the prosecution ought to have found it more important to have the genuineness of the Ding diary examined rather than the Beiglboeck documents. Ding signed in ink. So the institute at Frankfurt would have been able to ascertain without any difficulty whether the signature on the first page is several years older than the signature on the last page. Furthermore, the institute could have ascertained without any difficulty whether the whole diary from the end of the year 1941 till spring 1945 was written on exactly the same paper or not. But the prosecution did not hand the diary to this institute for examination. This fact shows that it was itself convinced that such examination would not have given a result favorable to the prosecution.

In my opinion, this is a particularly strong argument for the assumption that the diary was really composed and written subsequently. I also want to refer the Tribunal to my closing brief with reference to this point. The probative value of a diary lies in the fact that the man who kept it cannot foresee the future development when making his entries. Therefore it is to be presumed that the entries portray the events objectively and in their entirety. If a document which is subsequently composed is given the external form of a diary, one can deduce therefrom the intention to influence the reader in a certain direction and also to deceive him for this purpose. That is the reason why any record written subsequently and made up in the form of a diary has no probative value.

The prosecution tried to show that the Ding diary is of probative value by comparing its contents with a number of documents having the same contents as the entries in the diary. In my closing brief I dealt with these documents in detail and proved that they all, without exception, came from Ding. All documents which the prose-

cution compared with the diary, Ding still had at hand when he made the belated compilation after the original diary had been burned. They are vouchers he used for the entries he made in the diary we have now. Therefore, it cannot be deduced from the conformity of these documents and the diary that the latter is good evidence.

One of the documents the prosecution compared with the diary is the so-called work report of Ding. This work report is really only a draft which was not signed and was not sent to Mrugowsky. I explained this in detail in my closing brief and offered evidence for it. According to Kogon's statement, this draft of the report was written in Block 50 by the second compound clerk. Such draft has no probative value unless it is signed by the person who should sign it. In this instance, it would have been Ding. Mr. Hardy admitted that this work report was only prepared for signature by Ding. He thereby admitted that it was not signed. Therefore, the draft has no probative value. If these three main elements of evidence fail, Kogon's statement, the work report, and the Ding dairy, the chief part of the evidence brought forward against Mrugowsky fails.

The prosecution contended in its summing-up that the experimental subjects volunteered neither for the typhus experiments nor for the other experiments at Buchenwald. In respect of the other experiments, this is not correct. I shall deal with this later. In respect to the typhus experiments, it may be correct that most of the experimental subjects did not volunteer.

On the other hand, the closing brief of the prosecution shows no allegation for the period up to the fall of 1943 that Mrugowsky had anything to do with the selection of the prisoners for the experiments. This is correct and was also put in in my closing brief. In autumn 1943 according to the contentions of the prosecution, again relying on Kogon's testimony, Ding is said to have asked Mrugowsky for the experimental subjects to be chosen by the Reich Leader SS. This statement of Kogon's is also untrue. I have pointed this out in detail in my written statement.

In this connection, the prosecution mentions Himmler's order of 27 February 1944 relating to the selection of the prisoners by the Reich police agency. But this order of Himmler was not given pursuant to a suggestion made by Mrugowsky. It is really due to the attempts of Dr. Morgen. He explained this accurately in his affidavit of 23 May 1947, which I offered in evidence.

So it is an established fact that until autumn 1943 Mrugowsky had nothing to do with the selection of the prisoners, and that from this time on, the prisoners for the typhus experiments were chosen by the Reich criminal police agency pursuant to Himmler's order suggested by Dr. Morgen, so that *after* this time Mrugowsky had *also* nothing to do with the choice of the prisoners.

The prosecution calls the typhus experiments criminal, in particular, because control persons were used and above all because of the alleged "passage persons". * As to the control persons, I explained at length in my closing brief that such vaccine experiments are impossible without the use of control subjects and lead to no practical result without them.

If one takes the Ding diary for information, it appears that in a number of test series the cultural virus used was no longer pathogenic to human beings. If no control persons had been infected, the fact that the experimental persons were not taken ill would have been explained as a consequence of the protection obtained by the vaccination. This would have led to entirely wrong deductions and to the use of inferior vaccines in practice. If one considers the typhus experiments as admissible, the use of control subjects is, therefore, indispensable. I explained this in detail in my closing brief.

On the other hand there was no justification for the use of passage persons who were infected merely in order to have live virus always on hand. I have demonstrated in my written arguments that such passage persons were never used. Until April 1943 there was no reason to use them. For until April 1943 it is stated explicitly in the Ding diary that in each series of experiments the infection was performed by means of cultural virus bred in the yolk sacs of hens' eggs which Ding obtained from the Robert Koch Institute in Berlin. After 11 April 1943, Ding infected with fresh blood taken from persons suffering from typhus. But during this period, too, the use of passage persons was superfluous because Ding always had persons at his disposal who had contracted typhus spontaneously, and he could take the fresh infected blood from them.

If the prosecution had wanted to bring evidence to show that passage persons were used in Block 46, this could have been done best of all by Ding and Dietzsch. The prosecution produced statements from both in which the question of the passage persons is not mentioned. The prosecution knew from the examination of Mrugowsky on the witness stand that he denied the use of passage persons. When I said at the end of the presentation of my evidence that I did not call Dietzsch to the witness stand but only offered an affidavit from him, Mr. Hardy asked the Tribunal for permission to interrogate Dietzsch on certain facts.

However, he never produced a record of such an interrogation. This is further evidence that Dietzsch did not confirm the use of passage persons. All the witnesses who testified on the use of passage persons did not work in Block 46. They, therefore, know nothing from their own observation, but only through third persons. Dr. Morgen

*Passage is the passing of a disease carrier through a human being or through an animal.

discovered nothing about passage persons during his investigations as an examining magistrate in Block 46 in Buchenwald. So there is no conclusive evidence of any kind to show that passage persons were used in Block 46. On the contrary, I proved in my closing brief that passage persons actually were *not* used.

If the Tribunal were, nevertheless, to assume that the use of passage persons was proved, there would be no guilt of Mrugowsky involved in the use of these passage persons because I demonstrated that Ding was not his subordinate in respect of his activity in Block 46, and also there is no evidence whatever to show that he even as much as knew about the use of passage persons.

In my written statements, I then dealt in detail with the experiments with acridine preparations within the framework of the typhus experiments. I proved that Ding did not obtain these preparations from Mrugowsky but from the I. G. Farbenindustrie A. G. There is no evidence whatever to show that Mrugowsky had any knowledge of these experiments performed by Ding.

Ding's report on the acridine experiments submitted for publication was handed to Mrugowsky by Grawitz only about 18 months after the termination of the experiments. Therefore, no charge can be made against Mrugowsky under criminal law for the experiments with acridine preparations which caused a particularly high number of deaths.

EXTRACT FROM THE CLOSING BRIEF FOR DEFENDANT MRUGOWSKY

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Convalescence Serum, Blood Conservation, and Blood Serum Conservation

Convalescence Serum

In Ding's diary (*NO–265, Pros. Ex. 287*) two entries are found concerning the taking of blood for the purpose of extracting convalescence serum. During the period from 26 May to 12 June 1944, 6,500 cc. of blood were taken from 15 defervescent typhus patients, and between 13 October and 31 October 1944, 20,800 cc. of blood were taken from 44 defervescent typhus patients. The blood was taken between the 12th [14th] and the 21st day following the disappearance of the fever. Thus an average of 465 cc. for each patient can be calculated. The witness for the prosecution, Kogon, has testified on this question. (*Tr. pp. 1192–3.*) His statement contains several serious misinterpretations. In the first place, it must be stressed that the taking of blood from a convalescent patient by no means constitutes an "experiment," as indicated by Mr. McHaney. What would be the experiment in that case? The only thing to find out is whether the person in question is suitable or not for the taking of blood.

Even Kogon admits that the taking of blood from convalescent patients is an ordinary procedure. I have proved the same thing through Mrugowsky 14, Mrugowsky Exhibit 37. The same appears from the affidavit of the expert, Professor Dr. Siebeck. (*Mrugowsky 15, Mrugowsky Ex. 38.*) There it says:

"* * * It is correct that in the case of typhus, convalescence serum is frequently used for therapeutical purposes * * *."

The expert, Professor Dr. Vollhardt, also confessed to the same opinion. It is then a fact that the taking of blood from former typhus patients during convalescence is, in principle, in accordance with medical usage.

It has been proved that no objections can be raised against the treatment in Block 46. Accordingly, it is very improbable that the physician in charge should have exposed particularly asthenic patients to the taking of blood. The witness Dorn has stated that the delivery of drugs to Block 46 took place through the prison hospital and that he personally discharged the deliveries twice a week. Furthermore, the examining judge, Dr. Morgen (*Mrugowsky 23, Mrugowsky Ex. 26*) demonstrated that even in 1944—

"* * * the treatment and supply of the sick persons was careful and good in every respect. According to the impression I gained, the sick persons were treated similar to those in a good military hospital."

This is also confirmed through the indictment of Morgen against Koch. (*NO–2366, Pros. Ex. 526.*)

Consequently, there is no reason to doubt that they were in a condition favorable to the taking of blood and that this constituted no danger for them. Mrugowsky expressed his opinion on this question during his examination. (*Tr. p. 5166.*) He pointed out that the taking of blood in a quantity not exceeding 500 cc. is in complete compliance with medical regulations and that the convalescent patients received additional food as compensation for the loss of blood. In his affidavit Dr. Ellenbeck propounded his view concerning the extraction of typhus convalescence serum. (*Mrugowsky 120, Mrugowsky Ex. 110.*) From this it appears that Ellenbeck also received blood from patients belonging to the Waffen SS, consequently not exclusively from prisoners in the concentration camps. In the above-mentioned document (*Mrugowsky 15, Mrugowsky Ex. 38*) Professor Siebeck expressly points out:

"It is at least quite improbable, if not impossible, for human beings, who are in the convalescent stage of typhus, to be so harmed by a single bloodletting of 439 cc. that they die after a certain period has elapsed in consequence of the loss of blood."

The same opinion is endorsed by Professor Dr. Vollhardt.

In face of this evidence no support is to be found for the assertion of Kogon that many convalescent patients died at that time, nor for his suspicion that they died as a consequence of the taking of blood. The result of this exposition then is that:

1. The taking of blood for the purpose of extraction of convalescence serum is not an experiment but a medical measure. It is not criminal but customary throughout the world.

2. The bleedings were carried out according to the regulations of medical science.

3. The quantities taken were below the usual limit, probably even very far below.

4. It is absolutely impossible that any person whatsoever died as a consequence of the taking of blood.

On the other hand, the blood pressure of persons convalescing from typhus, in particular, is often too low. Their blood vessels are still not as elastic as before. In such cases, a withdrawal of blood within the normal limits is very often a practiced method of relieving the circulation.

Preservation of Blood Serum

Furthermore, Kogon states that Dr. Ellenbeck carried out the taking of blood in the small camp to obtain a stock of blood serum. (*Tr. p. 1192.*) Kogon further states that in the part of the Buchenwald concentration camp, where blood was taken, there were enough volunteers and they received additional food. He answered the question as to whether anybody died as a consequence of the taking of blood as follows:

> "* * * It is impossible to establish whether anybody died directly or indirectly as a consequence of the taking of blood * * *."

Dr. Ellenbeck made the following statement concerning that question:

> "From the fall of 1944 onwards, as far as I know by request of the leading physician of the concentration camps, the department for the conservation of blood produced a conserved blood serum to be used for the emergency treatment of prisoners since drugs became more and more scarce. I had nothing whatsoever to do with the drawing of blood and the supply. I had the blood sent to Berlin. On account of reasons to be found in the aerial warfare, the production of this conserved blood serum was only very small.
>
> "Kogon maintained that SS medical personnel from Berlin drew the blood for this conserved blood serum. That is untrue. No SS medical personnel came from Berlin to Buchenwald in order to fetch blood, but ordinary couriers came who were not in a position to draw the blood." (*Mrugowsky 120, Mrugowsky Ex. 110.*)

Therefore these amounts of blood, too, were only small. Ellenbeck can state positively that such stocks of serum were not made for other purposes in his laboratory. The medical officer of the concentration camp gave him the order. The stocks of serum he had prepared were made available to him again. * * *

"To the question as to whether people died after the removal of blood, I refer to the above-quoted statements of the specialists, Professor Dr. Vollhardt and Professor Dr. Siebeck."

I would also like to point out that according to Kogon's statement, Dr. Ellenbeck himself saw to it that the prisoners actually received their additional food after the removal of blood. The prisoners volunteered for the removal of blood and received additional food for it. That somebody died as a consequence of the removal of blood is a statement without any basis.

I cannot imagine how a criminal character can be attached to this removal of blood. The taking of blood from volunteers is not criminal in any way.

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d. Evidence

Prosecution Documents

Doc. No.	Pros. Ex. No.	Description of Document	Page
NO–429	281	Extract from the affidavit of defendant Hoven, 24 October 1946, concerning typhus and virus experiments.	555
NO–265	287	Diary of the division for typhus and virus research at the Institute of Hygiene of the Waffen SS, 1941 to 1945 (Ding diary).	557
NO–257	283	Extract from the affidavit of Dr. Erwin Schuler, 20 July 1945, concerning typhus experiments.	572
NO–571	285	1943 work report for department for typhus and virus research.	573
NO–121	293	Letter from Haagen to Hirt, 15 November 1943, concerning prisoners to be used as experimental subjects for tests with typhus vaccine.	578
NO–122	298	Letter dictated by Rose, addressed to Haagen, 13 December 1943, concerning experimental subjects for vaccine experiments.	579
NO–123	303	Letter from Haagen to Hirt, 9 March 1944, concerning experiments conducted with typhus vaccine and requesting experimental subjects.	580
NO–139	317	Letter from Dr. Grunske to Haagen, 7 March 1944, concerning reports on yellow fever virus experiments requested by a Japanese medical officer.	581

Defense Documents

Doc. No.	Def. Ex. No.	Description of Document	Page
Rose 16	Rose 12	Extracts from the affidavit of Professor Otto Lenz, director of the Robert Koch Institute in Berlin.	581
Rose 46	Rose 20	Extract from a certified statement, 4 March 1947, of J. Oerskov, M. D., director of the State Serum Institute in Copenhagen.	582

Testimony

Extracts from the testimony of prosecution witness Eugen Kogon 583
Extracts from the testimony of defendant Rose 586
Extract from the testimony of defendant Mrugowsky 595
Extracts from the testimony of defense witness Dr. Eugen Haagen 606

TRANSLATION OF DOCUMENT NO–429 PROSECUTION EXHIBIT 281

EXTRACT FROM THE AFFIDAVIT OF DEFENDANT HOVEN, 24 OCTOBER 1946, CONCERNING TYPHUS AND VIRUS EXPERIMENTS

I, Waldemar Hoven, being duly sworn, depose and state:

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Typhus and Virus Experiments

4. In the latter part of 1941 an experimental station was established in the Buchenwald concentration camp in order to determine the effectiveness of various typhus vaccines. This section was called the "Typhus Experimental Station—Division for Typhus and Virus Research" and was under the direct supervision of Dr. Ding, alias Schuler. This experimental station was set up in Block 46 of the camp. The Hygiene Institute of the Waffen SS in Berlin, under the command of Dr. Joachim Mrugowsky, received all the reports of these activities and Dr. Ding took orders from Mrugowsky. In the early days, that is, between 1941 and the summer of 1943, Dr. Ding had many meetings in Berlin with Dr. Karl Genzken concerning his work at Buchenwald in connection with the typhus experiments. Dr. Ding told me that Dr. Genzken had a special interest in these matters and that he sent him reports at various times. Dr. Ding also said that Dr. Karl Genzken was one of his superiors. From my association with Dr. Ding, I understood that the chain of command in the supervision of the typhus experimental station was as follows: Reichsarzt SS Grawitz, Genzken, Mrugowsky, and Ding.

5. I can recollect that Dr. Genzken gave orders to Dr. Ding in January 1943 to enlarge the experimental station. At this time Block 50 was cleaned out and made into a station for the production of the

various vaccines to be used in the experiments at Block 46. From this time on the experimental station was known as the "Division for Typhus and Virus Research of the Hygiene Institute of the Waffen SS". Then in the summer of 1943, Dr. Genzken turned all his duties over to Dr. Mrugowsky, and from that time on Genzken no longer actively participated in these matters. I can recall meeting Dr. Mrugowsky in the home of Dr. Ding on one of his visits to Buchenwald.

6. Inasmuch as I was constantly associated with Dr. Ding at Buchenwald, we became very friendly. I frequently discussed matters with Ding and visited his experimental station from time to time. As a matter of fact, Dr. Ding had to go to Berlin for discussions with Dr. Mrugowsky and others nearly 3 days out of every two weeks, and on such occasions I was in charge of the typhus institute. However, when Ding went to Berlin the experiments were discontinued until he returned.

7. The experiments in Block 46 in the Buchenwald concentration camp were conducted as follows: One group of victims was first vaccinated with the typhus vaccine and then infected with the typhus virus. In order to contrast the effectiveness of the vaccine, another group of inmates was merely infected with the typhus virus without previous vaccination. Between the autumn of 1942 and the summer of 1943 about 500 inmates of the Buchenwald concentration camp were used in these experiments. During my time about 10 percent of the total number of the inmates used, died as a result. I heard that a larger number of the victims died after my time, that is, about 20 percent.

8. The selection of inmates to be used for the purposes of medical experiments in Block 46 by the Division for Typhus and Virus Research was as follows: Whenever Dr. Ding needed human beings for his work, a request was made to the office of the camp commandant and referred to me for action. Usually a man named Schober, an SS Hauptsturmfuehrer, notified me to select the necessary number of prisoners for these purposes. In accordance with this request I selected various inmates, at random, from the roster of the camp. They were placed on a list over my signature and returned to Schober, who often removed certain names from the list for political reasons. In the event of particular prisoners being removed from the list, I was requested to select substitutes in order to provide Dr. Ding with the desired number of victims. After I returned the completed list to Schober, it was given to Dr. Ding for approval. He made a final check to ascertain, from a medical point of view, the physical condition of the selected inmates and to determine whether or not they met with his requirements.

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DIARY OF THE DIVISION FOR TYPHUS AND VIRUS RESEARCH AT THE INSTITUTE OF HYGIENE OF THE WAFFEN SS, 1941 TO 1945 (DING DIARY)

29 Dec 41:

Conference between Army Sanitation Inspection [Inspector], General Chief Surgeon Professor Dr. Handloser; State Secretary for the Department of Health of the Reich, SS Gruppenfuehrer Dr. Conti; President Professor Reiter of the Health Department of the Reich; President Professor Gildemeister of the Robert Koch Institute (Reich Institute to Combat Contagious Diseases) and SS Standartenfuehrer and Lecturer [Dozent] Dr. Mrugowsky of the Institute of Hygiene, Waffen SS, Berlin.

It has been established that the need exists to test the efficacy of, and resistance of the human body to, the typhus serum extracted from the egg yolks. Since tests on animals are not of sufficient value, tests on human beings must be carried out.

2 Jan 42:

The concentration camp Buchenwald is chosen for testing the typhus vaccines. SS Hauptsturmfuehrer Ding is charged with these tests.

5 Jan 42:

Preliminary test A:

Preliminary test to determine the surest and most practical way of infecting human beings artificially. Five experimental subjects received intramuscular and subcutaneous injections of vitelline membrane diluted 1:25 with an emulsified Rickettsia-Prowazeki strain from the Robert Koch Institute in doses of 1 cc. Infection was not possible.

Dr. Ding
SS Hauptsturmfuehrer

10 Jan 42:

Preliminary test B:

Preliminary test to establish a sure means of infection: Much as in smallpox vaccination, 5 persons were infected with vitelline membrane culture virus (strain Rickettsia-Prowazeki, Robert Koch Institute) through 2 superficial and 2 deeper cuts in the upper arm.

All experimental subjects used for this test fell ill with genuine typhus. Incubation period 2 to 6 days.

20 Jan 42:

Preliminary report of reactions to vaccinations. Through continuous blood pictures a strong surplus of neutrophile myelocytes was discovered.

20 Feb 42:

Case history and charts of the preliminary tests to establish a sure means of infection sent to Berlin.

1 death out of 5 sick.

DR. DING
SS Hauptsturmfuehrer

6 Jan 42:

1 Feb 42:

Typhus Vaccine, Research Series I

Vaccination for immunization against typhus using the following vaccines:

1. 31 persons with Weigl vaccine from the intestines of lice from the Institute for Typhus and Virus Research of the Army High Command, Krakow.

2. 35 persons with vaccine from vitelline membrane cultures made by the Cox, Gildemeister, and Haagen process.

3. 35 persons with vaccine "Behring Normal" (1 egg in an emulsion of 450 cc. vaccine. Mixture of 70 percent Rickettsia Mooseri and 30 percent Rickettsia-Prowazeki).

4. 34 persons with "Behring Normal" "Behring Strong" (1 egg emulsified in 250 cc. solvent).

5. 10 persons for control.

3 Mar 42:

All persons vaccinated for immunization between 6 Jan 42 and 1 Feb 42, and the 10 control persons were infected with a virus culture of Rickettsia-Prowazeki in the presence of Professor Gildemeister. SS Hauptsturmfuehrer Dr. Ding infected himself in the process (laboratory accident).

17 Mar 42:

Visit of Professor Gildemeister and Professor Rose (Head of the Department for Tropical Medicine in the Robert Koch Institute) to the experimental station. All persons experimented on fell sick with typhus except two who, as was established later, had already had typhus during an epidemic at the police prison in Berlin. SS Hauptsturmfuehrer Dr. Ding fell sick with typhus and is in the hospital in Berlin. SS Hauptsturmfuehrer Hoven, station medical officer of the Waffen SS in Weimar, is supervising the stations in the meantime (Blocks 44 and 49).

19 Apr 42:

Final report on the 1st typhus vaccine research series: Stone Block 46 will be made available for the purpose of these typhus experiments.

5 deaths (3 control persons, 1 "Behring Normal", and 1 "Behring Strong").

DR. DING
SS Hauptsturmfuehrer

19 Aug 42:
4 Sep 42:

Typhus Vaccine, Research Series II

Vaccination for immunization against typhus using the following vaccines:

1. 20 persons with vaccines made by the Durand and Giroud process (Pasteur Institute, Paris) from rabbit lungs.

2. 20 persons with vaccine made by the process of Combiescu, Zotta, and collaborators from dog lungs. (Producer: Cantacuzino, Bucharest.) This vaccine was made available by Professor Rose, who received it from Naval Doctor Professor Ruge from Bucharest.)

15 Oct 42:

Artificial infection of all persons vaccinated for immunization between 19 September 1942 and 4 October 1942, and 19 persons for control with vitelline membrane virus (Rickettsia-Prowazeki).

25 Oct 42:

Infection has started with all persons experimented on.

20 Nov 42:

Charts and case history sent to Berlin.

4 deaths of control persons.

DR. DING
SS Hauptsturmfuehrer

10 Sep 42:
10 Oct 42:

Unit of SS Hauptsturmfuehrer Dr. Ding ordered to the Pasteur Institute in Paris to Professor Giroud.

22 Oct 42:
5 Nov 42:

Typhus Vaccine, Research Series III

Vaccination for immunization against typhus of 20 persons with vaccine made according to the process of Giroud, Paris. (This vaccine was brought from Paris by SS Hauptsturmfuehrer Dr. Ding immediately after production.)

30 Nov 42:

Artificial infection with vitelline membrane material from the Robert Koch Institute of the 20 persons vaccinated for immunization and of 6 control persons. This research series was observed for 6 weeks and then abandoned without results, as no sickness broke out in the control group.

DR. DING
SS Hauptsturmfuehrer

27 Oct 42:
8 Nov 42:

Typhus Vaccine, Research Series IV

Vaccination for immunization of 20 persons with a vaccine from intestines of lice made by the Weigl process (sent by lecturer Dr. Haas of the typhus institute "Emil v. Behring" in Lvov).

30 Nov 42:

To test the effect of the immunization, the infection is to be carried out with lice suffering from typhus. The lice and their cages must be burnt immediately, as the latter became leaky during transport, and therefore represent a danger of epidemic in Buchenwald camp.

3 Dec 42:

Newly sent lice applied to 15 persons (5 immunized and 10 persons for control). The lice must again be destroyed, as the cages are not tight.

Report made that infection with live typhus lice is not possible because the danger to the camp inmates is too great.

4 Jan 43:

Due to infection by lice on 3 December 1942, five persons show short nontypical illness.

The research series is concluded.

DR. DING
SS Hauptsturmfuehrer

15–18 Dec 42:

Unit of SS Hauptsturmfuehrer Dr. Ding ordered to the opening of the typhus research institute "Emil v. Behring" in Lvov in the General Government (lecturer Dr. Haas).

28–31 Dec 42:

Vaccination for immunization against diphtheria of the Reserve Battalion of the Leibstandarte SS "Adolf Hitler" (approx. 2,500 men), because of the outbreak of an epidemic.

Inspection of quarters and advice to the medical officer on the fighting of the epidemic.

DR. DING
SS Sturmbannfuehrer

1943

1 Dec 42:
20 Dec 42:

Typhus Vaccine, Research Series V

To determine the immunization effect, 20 persons are being actively vaccinated for immunization with "EM" vaccine of the Behring Works—Dr. Demnitz—(vaccine in which vitelline membrane as well as chicken embryos were used).

26 Jan 43:

Artificial infection with vitelline membrane virus OP No. 223 and 226 (Rickettsia-Prowazeki—strain from Robert Koch Institute).

DR. DING
SS Sturmbannfuehrer

9 Jan 43:

By order of the Chief of the Medical Service of the Waffen SS, SS Gruppenfuehrer and Major General of the Waffen SS Dr. Genzken, the typhus research station at the Buchenwald concentration camp becomes the "Division for Typhus and Virus Research." The head of the division will be SS Sturmbannfuehrer Dr. Ding. During his absence, the station medical officer of the Waffen SS, Weimar, SS Hauptsturmfuehrer Hoven, will supervise the production of vaccines. The Chief of the WVHA, SS Obergruppenfuehrer and Lt. General of the Waffen SS, Pohl, has ordered the extension of the block of stone buildings.

SS Sturmbannfuehrer Dr. Ding is at the same time appointed chief departmental head for special missions in office XVI (Hygiene), of office group D (medical affairs of the Waffen SS) of the SS Main Operational Headquarters.

10 Jan 43:

Therapeutic Experiments with Acridine and Methylene Blue

At the suggestion of the I. G. Farbenindustrie A. G. the following were tested as typhus therapeutica:

a. Preparation 3,582 "Acridine" of the chemical pharmaceutical and sero-bacteriological department in Frankfurt-on-Main, Hoechst, Professor Lautenschlaeger and Dr. Weber.

(Therapeutic experiment A)

b. Methylene Blue, tested in an experiment on mice by Professor Kiekuth, Elberfeld.

(Therapeutic experiment M)

26 Jan 43:

Artificial infection with vitelline membrane virus OP Nos. 223 and 226:

20 persons for therapeutic experiment A: Acridine.

20 persons for therapeutic experiment M: Methylene Blue.

7 persons for control.

20 Feb 43:

The control persons from the typhus infections of the 26 January 1943 show no typical typhus symptoms; in the groups, vaccine "EM" of the Behring Works, Acridine, Methylene Blue, about ¼ are also not sick, the remainder have medium typhus.

The research series was designated to the manufacturer as "negative," since the persons for control could not be infected properly.

One death in therapeutic experiment Acridine.

DR. DING
SS Sturmbannfuehrer

10 Jan 43:

Yellow Fever Vaccine Tests

The Behring Works, Marburg-Lahn, the Robert Koch Institute, Berlin, and the Institute for Typhus and Virus Research of the Army High Command in Krakow were commissioned by the Army High Command to manufacture the yellow fever vaccine of Beltier and collaborators. Since a live virus is being handled, a test is to be performed on 5 persons for safety's sake from each vaccine charge.

At the same time 50 persons are to be vaccinated *once* with OP No. 25 of the Robert Koch Institute, which has already been tested for its harmlessness, to determine the decrease of working capacity.

The results of the yellow fever vaccine tests are to be sent to office XVI in the SS Main Operational Headquarters, in duplicate, who will forward one to the manufacturer, and one to the Army High Command, attention: Oberstabsarzt Dr. Schmidt, Army Medical Inspectorate.

List of Tested OP Numbers

Manufacturer		
No. 1. Behring Works, Marburg	1, 2, 4	13 Jan–26 Jan 43.
2. Robert Koch Institute, Berlin.	28, 30, 37, 38, 39	11 Jan–26 Jan 43.
3. Robert Koch Institute, Berlin.	46, 47, 48, 49, 50	30 Jan–8 Feb 43.
4. Behring Works, Marburg	4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23.	30 Jan–8 Feb 43.
5. Army High Command, Krakow.	19, 21, 22, 23, 25, 26, 27.	9 Feb–22 Feb 43.
6. Behring Works, Marburg	24, 25, 26, 27, 28, 29, 30, 31, 32, 33.	11 Feb–22 Feb 43.
7. Behring Works, Marburg	34, 35, 36, 37, 38, 39, 40, 41, 42, 43.	25 Feb–7 Mar 43.
8. Army High Command, Krakow.	28, 29, 30, 32, 34	25 Feb–7 Mar 43.
9. Robert Koch Institute, Berlin.	54, 55, 57, 58	25 Feb–7 Mar 43.
10. Behring Works, Marburg	54, 55, 56, 57, 58, 59, 60, 61.	6 May–17 May 43.

Production is being abandoned for the time being because of the military situation.

Dr. Ding
SS Sturmbannfuehrer

3 Feb 43:

Sterility Experiment with an Egg Vaccine

A package was sent to us with a small bottle of 20 cc. typhus vaccine from egg-yolk cultures. Op No. 35 of 15 October 1942. A second injection on 8 December 1942, a third injection on 13 December 1942, of a typhus vaccination for immunization was carried out on Sister Lilli Boehm, born on 3 April 1912, by resident surgeon Dr. von Eysmond. Towards evening a temperature of 104° F. (40° C.). Forty-eight hours after the last vaccination, death in coma in the German clinic in Kovno.

Section protocol: Typhus (No. 2033, University of Kovno, pathological institute, Dr. Starkus).

Investigation: Material vaccinated on

1. 2 percent Schraegagar
2. Bouillon
3. 2 percent Glucose Bouillon
4. Tarrozzi
5. Blood slide
6. Klauberg slide

} No growth after 48 hours

During animal experiments, guinea pigs and mice were vaccinated intraperitoneally and under the skin of the back. No pathological symptoms at all.

Results: The vaccine not responsible for the death. Vaccination took place during the incubation period.

Dr. Ding
SS Sturmbannfuehrer

8 Feb 43:

Visit of Oberstabsarzt Dr. Eyer from the Institute for Typhus and Virus Research of the Army High Command in Krakow and Oberstabsarzt Dr. Schmidt from the Army Medical Inspectorate.

22 Feb 43:

Examination of Unknown Bacteriological Material

During August 1942 Soviet parachutists were dropped in the Marienburg district; they carried in their baggage amphiole material, which was turned over by the RSHA (Dept. IV A/2 Book No. 2152/439 on 25 Feb 1943). They were dysentery bacteriophaga which could be clearly diagnosed by animal and culture experiments; this can be used for therapeutic purposes in cases of diarrhea.

Dr. Ding
SS Sturmbannfuehrer

28 Feb 43:
6 Mar 43:

Unit of SS Sturmbannfuehrer Dr. Ding ordered to Paris to procure laboratory material for the Division for Typhus and Virus Research, and the Institute of Hygiene.

23 Mar 43:

Conference between SS Sturmbannfuehrer Barnewald, SS Sturmbannfuehrer Dr. Ding and SS Hauptscharfuehrer Schlesinger of department W 5, W V H A concerning the breeding of rabbits, guinea pigs, and mice as experimental animals for the experimental department.

25 Jan 43:
28 Feb 43:

Typhus Vaccine, Research Series VI

To determine the immunization effect, the following were actively vaccinated for immunization:

20 persons with vaccine "Zuerich" from the hygiene institute of the University of Zuerich (lungs of mice), and

20 persons with vaccine "Riga" from the serum institute of the University of Riga (Professor Darsin, from vitelline membrane cultures).

31 Mar 43:

Artificial infection with egg Rickettsia (Rickettsia-Prowazeki) of the Robert Koch Institute, Berlin.

11 Apr 43:

The infection of 31 March 1943 has not resulted in any sickness so far.

28 Apr 43:

Experimental series abandoned.

DR. DING
SS Sturmbannfuehrer

7 Mar 43:

Examination of the water and inspection of the concentration camp Vught, near Hertogenbosch.

8 Mar 43:
10 Mar 43:

Inspection of billets in Apeldoorn-Arnhem and vicinity. Advising chief surgeon of the commander of the Netherlands re a diphtheria epidemic in Apeldoorn.

DR. DING
SS Sturmbannfuehrer

24 Mar 43:
20 Apr 43:

Carrying out of a large scale experiment on 45 persons by the process of the hygiene institute of the Waffen SS by SS Standartenfuehrer Lecturer Dr. Mrugowsky.

Vaccinations were made on 8 different days within 4 weeks against smallpox, typhoid, paratyphus A and B, cholera, typhus, and diphtheria.

Compatibility was generally good. Exact records and report were delivered on 27 April 1943 to department chief of office XVI.

It led partly to a strong decrease in working capacity, loss of strength, increase of temperature, and swelling of the lymph glands. Typhoid and smallpox were not vaccinated on the same side of the body, otherwise great swelling of the lymph glands takes places.

The diphtheria adsorbat vaccine led to about 20 cases of strong formation of abcesses. Where still in the camp, the persons were again vaccinated for smallpox within ¼ year.

DR. DING
SS Sturmbannfuehrer

31 Mar 43:

Therapeutic Experiments "Acridine Granulate" and "Rutenol"

For the therapeutic experiments "Acridine Granulate" (A. Gr) and Rutenol (R), 40 persons were infected with egg Rickettsia.

11 Apr 43:

After observation lasting several weeks, no sickness started. Report to SS Standartenfuehrer Lecturer Dr. Mrugowsky and President Professor Gildemeister. The strain "Matelska" of the Robert Koch Institute, which was highly virulent until a year ago, apparently is no longer pathogenic to humans. A new means of artificial infection must therefore be found, which will lead to typhus with certainty.

DR. DING
SS Sturmbannfuehrer

11 Apr 43:

Preliminary Experiment C:

To determine a sure means of infection, experiments with fresh blood from persons stricken with typhus were made. Infection took place as follows:

3 persons—2 cc. each of fresh blood intravenously.
2 persons—2 cc. each of fresh blood intramuscularly.
2 persons—2 cc. each of fresh blood subcutaneously.
2 persons—after scarification.
2 persons—with a vaccinating scalpel cutaneously.

Those infected intravenously contracted typical, serious typhus and died from failure of the circulatory system. The other experimental subjects complained only of minor discomfort, without becoming hospital cases.

DR. DING
SS Sturmbannfuehrer

13 Apr 43:

Preliminary Experiment D:

The following were infected:

6 persons with 2 cc. each of fresh blood intravenously.

6 persons with 2 cc. each of fresh blood intramuscularly.

6 persons with 2 cc. each of fresh blood subcutaneously.

6 persons by scarification.

6 persons by means of vaccinating scalpel cutaneously.

The 6 *intravenously* infected persons again contracted very serious typhus; 5 died.

Of the 6 infected intramuscularly, one person contracted medium typhus. The others had no serious complications, and were not hospital cases.

The surest means of infection to produce typhus in humans is, therefore, the intravenous injection of 2 cc. fresh typhus-infected blood.

DR. DING
SS Sturmbannfuehrer

13 and 14 Apr 43:

Unit of SS Sturmbannfuehrer Dr. Ding ordered to I. G. Farbenindustrie A. G., Hoechst. Conference with Professor Lautenschlaeger, Dr. Weber, and Dr. Fussgaenger concerning the experimental series "Acridine Granulate and Rutenol" in the concentration camp Buchenwald.

Visit to Geheimrat Otto and Professor Prigge in the Institute for Experimental Therapeutics in Frankfurt/Main.

24 Apr 43:

Therapeutic Experiments Acridine Granulate (A–GR2) and Rutenol (R–2)

To carry out the therapeutic experiments Acridine Granulate and Rutenol, 30 persons (15 each) and 9 persons for control were infected by intravenous injection of 2 cc. each of fresh typhus-infected blood. All experimental persons contracted very bad typhus.

1 Jun 43:

Charts and case history completed.

The experimental series was concluded.

21 deaths (8 with Acridine Granulate, 9 with Rutenol, 5 control).

DR. DING
SS Sturmbannfuehrer

27 Apr 43:

1 May 43:

Unit of SS Sturmbannfuehrer Dr. Ding ordered to Paris to procure laboratory material for the Division for Typhus and Virus Research and the Hygiene Institute.

10 Jun 43:

Typhoid-Therapeutic Experiment "Otrhomin"

At the suggestion of the Robert Koch Institute, Berlin (Professor Dr. Lockemann) the effect of a new therapeuticum of the Rhoda series—Otrhomin is to be tested on humans. For this purpose, 20 persons of the series "Otrhomin" and 20 persons for control (10 immunized, 10 not immunized) were infected on 10 June 1943 and on 18 June 1943 with 2 cc. each of typhoid bacteria in a physical salt solution, given in potato salad. Of the 40 persons, 7 became slightly sick, 23 more seriously. Furthermore, there were 6 ambulatory cases. Four persons did not show any symptoms.

28 Jul 43:

Charts and case history of the series "Otrhomin" completed and sent to Berlin.

5 Aug 43:

Charts and case history of the control series completed and sent to Berlin.

10 Aug 43:

Delivery of the records to Reich Senior Medical Counsellor Christiansen in the Reich Ministry of the Interior. The experimental series was concluded.

1 death (control not immunized).

DR. DING
SS Sturmbannfuehrer

28 May 43:
18 Jun 43:

Typhus Vaccine, Experimental Series VII

Carrying out of typhus vaccination for immunization with the following vaccine:

1. 20 persons with vaccine "Asid".
2. 20 persons with vaccine "Asid Adsorbat" of the Anhaltinischen Serumwerke G. m. b. H., Berlin 7.
3. 20 persons with vaccine "Weigl" of the Institute for Typhus and Virus Research of the Army High Command, Army (OKH) Krakow (Eyer).

27 Aug 43:

Infection of—

20 persons in the series "Asid".
20 persons in the series "Asid Adsorbat".
20 persons in the series "Weigl".
10 persons for control by intravenous injection of ¼ cc. each of fresh typhus-infected blood, strain Bu II, Passage I.

All experimental persons got very serious typhus.

7 Sep 43:

Chart and case history completed. The experimental series was concluded—

53 deaths (18 with "Asid", 18 with "Asid Adsorbat", 9 with "Weigl", 8 control).

9 Sep 43:

Charts and case histories delivered to Berlin.

DR. DING
SS Sturmbannfuehrer

8 Nov 43:
17 Jan 44:

High Immunization Experiment with Fraenkel Vaccines

According to an immunization plan of the Fraenkel high immunization for humans, the compatibility of Fraenkel-Formol-Toxoid (Formol-Toxin of bacterium perfringens) of humans was tested.

At first 15 experimental subjects were vaccinated 3 times at intervals of 14 days with 1 cc. Fraenkel-A1. F. T. (Fraenkel-Toxoid absorbed in aluminum hydroxide).

After an interval of 14 days, vaccinations with Fraenkel-Formol-Toxoid (Formol-Toxin of bacterium perfringens) as follows:

20 Dec 43	1 cc. subcutaneously—left upper arm.
26 Dec 43	2 cc. subcutaneously—right upper arm.
31 Dec 43	4 cc. subcutaneously—left upper arm.
3 Jan 44	6 cc. subcutaneously—right upper arm.
6 Jan 44	9 cc. subcutaneously—right and left chest.
10 Jan 44	12 cc. subcutaneously—both upper arms.
14 Jan 44	15 cc. subcutaneously—right and left chest.

17 Jan 44:

Observation of vaccination reactions completed and sent away.

DR. DING
SS Sturmbannfuehrer

19 Nov 43:
25 Nov 43:

Phosphorus-Rubber Incendiary Bomb Experiment

To test the preparation "R 17" on fresh phosphorus burns and to test "Echinacine" ointment and "Echinacine extern" for the later treatment of wounds from phosphorus burns (all from the Dr. Madaus Works in Dresden-Radebeul), burning tests were carried out on five experimental subjects on the above-mentioned dates with phosphorus matter taken from an English incendiary bomb found near Leipzig.

5 Jan 44:

Records delivered to the Reich medical officer of the SS with the request to forward it to the Dr. Madaus Works.

DR. DING
SS Sturmbannfuehrer

30–31 Dec 43:

Special Experiment on 4 Persons in the Koch-Hoven Case

By order of SS Gruppenfuehrer Nebe, the experiment was carried out in the presence of Dr. Morgen and Dr. Wehner.

DR. DING
SS Sturmbannfuehrer

21 Dec 43:
16 Jan 44:

Control of Blood Plasma

By order of the Military Academy of Medicine, Berlin, 18 capsules of blood plasma were tested on 18 experimental persons for their compatibility on humans.

17 Jan 44:

Test records sent away.

25 Jan 44:
19 Feb 44:

Control of Blood Plasma

By order of the Military Academy of Medicine, Berlin, 30 more capsules of blood plasma were tested on 30 experimental persons for their compatibility on humans.

22 Feb 44:

Test papers sent to Reich medical officer of SS by courier.

DR. DING
SS Sturmbannfuehrer

22 Jan 44:
31 Jan 44:

Vaccine Preliminary Experimental Series "Weimar"

To test compatibility and the immunization effect, five persons were immunized by three vaccinations with typhus vaccine "Weimar" (producer: Hygiene Institute of the Waffen SS, Division for Typhus and Virus Research). On 22 Jan 44, 0.5 cc., on 27 Jan 44, 1.0 cc., on 31 Jan 44, 1.0 cc. were injected subcutaneously in the left or right upper arm.

For comparison, 5 persons were immunized on the above-mentioned dates with 0.5 cc., 0.5 cc., and 1 cc. of typhus egg-culture vaccine "Asid" (Anhaltinische Serumwerke, Berlin) and 5 persons were immunized with typhus vaccine "Giroud" (produced by the Pasteur Institute, Paris, from rabbit lungs), 1 cc. each.

25 Feb 44:

Twenty persons (15 immunized and 5 for control) were infected by subcutaneous injection of 1/20 cc. fresh typhus-infected blood.

Donor: G * * * Nr 713, 36 years old (6th day of sickness)
Strain Bu IV/Passage 13.

All those infected fell sick with slight to serious typhus.

5 Apr 44:

Chart and case history completed.

25 Apr 44:

The experimental series was concluded—

5 deaths (1 Asid, 1 Weimar, 3 Control).

DR. DING

8 Mar 44:

18 Mar 44:

Typhus Vaccine, Experimental Series VIII

Suggested by Colonel M. C. of the Air Corps, Oberstarzt Professor Rose the vaccine "Kopenhagen" (Ipsen-Murine vaccine), produced from mouse liver by the National Serum Institute in Copenhagen, was tested for its compatibility on humans.

20 persons were vaccinated for immunization by intramuscular injection into the Musculus Glutaeus Max. on the following dates: 8 Mar 44, 0.5 cc.; 13 Mar 44, 0.5 cc.; 18 Mar 44, 1.0 cc.

10 persons were contemplated for control and comparison.

4 of the 30 persons were eliminated *before* the start of the artificial injection, because of intermittent sickness.

16 Apr 44:

The remaining experimental persons were infected on 16 Apr 44 by subcutaneous injection of 1/20 cc. typhus sick fresh blood.

Donor: W * * * No. 763, 27 years old (6th day of sickness)
Strain Bu VII/Passage 1.

The following fell sick:

a. 17 persons immunized; 9 medium, 8 seriously.

b. 9 control persons; 2 medium, 7 seriously.

2 Jun 44:

The experimental series was concluded.

13 Jun 44:

Chart and case history completed and sent to Berlin.

6 deaths (3 Kopenhagen, 3 Control).

DR. DING

26 May 44:

12 Jun 44:

Taking of Blood to Produce Typhus Convalescent Serum (FFRS)

To produce FFRS, 6,500 cc. blood were taken from 15 typhus convalescents between the 14th and 21st day after the fever had subsided,

and sent by courier to the SS Main Operational Headquarters, office group D, office XVI (blood conservation) attn: SS Hauptsturmfuehrer Dr. Ellenbeck, in Berlin-Lichterfelde.

DING

22 May 44:
16 Jun 44:

Control of Blood Plasma

By order of the Military Academy for Medicine, Berlin, 44 capsules of blood plasma were tested on 44 experimental persons for their compatibility on humans.

19 Jun 44:

Test protocol sent to the senior hygienist of the Reich Medical Office of the SS and Police, Berlin.

DING

17 Jul 44:
27 Jul 44:

Typhus Vaccine, Experimental Series IX

The typhus vaccine "Weimar", produced by the Division for Typhus and Virus Research of the Hygiene Institute of the Waffen SS, Weimar-Buchenwald, was tested according to orders for its efficacy on humans.

This vaccine was produced from rabbit lungs according to the process Durand-Giroud. It contains virus (Rickettsia-Prowazeki) of self-isolating types deadened and suspended in 2/00 Formol.

20 persons were immunized on the following dates with 1 cc. each: 17, 22, 27 July 1944.

The vaccinations were made subcutaneously on the right or left upper arm.

For comparison 20 persons were immunized at the same time with "Weigl" vaccine, produced from lice by the Army High Command in Krakow according to regulations.

Furthermore, 20 persons were provided for control purposes.

6 Sep 44:

The 60 experimental persons were infected by subcutaneous injection of 1/10 cc. fresh typhus-infected blood each into the right upper arm.

All persons fell sick as follows:

a. "Weimar"—9 slightly, 7 slightly to medium, 4 medium.
b. "Weigl"—6 slightly to medium, 8 medium, 6 seriously.
c. Control—1 medium, 19 seriously.

17 Oct 44:

The experimental series was concluded.

4 Nov 44:

Chart and case history completed.

24 deaths (5 "Weigl", 19 Control).

DR. SCHULER

13 Oct 44:
31 Oct 44:

Taking of Blood to Produce Typhus Convalescent Serum (FFRS)

To produce FFRS, 20.8 liters of blood were taken from 44 typhus convalescents between the 14th and 21st day after the fever had subsided, and sent by courier to the SS Main Operational Headquarters, office group D, office XVI (blood conservation)—SS Sturmbannfuehrer Dr. Ellenbeck, Berlin-Lichterfelde.

SCHULER

26 Oct 44:

Special experiment on 6 persons according to instructions of SS Oberfuehrer Lecturer Dr. Mrugowsky and RKPA (report on this orally).

SCHULER

13 Nov 44:

Therapeutic Experiment with Typhus Vaccine

By order of the senior hygienist of the Waffen SS of 12 August 44, it is to be determined whether the course of typhus can be tempered by the intravenous or intramuscular injection of typhus vaccine.

For the experimental series 20 persons were considered, of these, 10 for intravenous injection (Series A), 10 for intramuscular injection (Series B) and, in addition, 5 persons for control.

On 13 Nov 44, the 25 experimental persons were infected by subcutaneous injection of 1/10 cc. each fresh typhus-infected blood. All persons fell sick as follows: Series A—10 serious; Series B—1 medium 9 serious; Control—5 serious.

22 Dec 44:

The experimental series was concluded.

2 Jan 45:

Chart and case history completed.

19 deaths (9 Series A, 6 Series B, 4 Control).

DR. SCHULER

TRANSLATION OF DOCUMENT NO–257
PROSECUTION EXHIBIT 283

EXTRACT FROM THE AFFIDAVIT OF DR. ERWIN SCHULER, 20 JULY 1945, CONCERNING TYPHUS EXPERIMENTS

* * * * * * *

Hoven's Share in Block 46

In February 1942 the order to conduct typhus experiments came through. I was chosen to carry out these experiments. Since I had

my office in Berlin, a deputy had to be appointed for my absence in Buchenwald. Reichsarzt SS Dr. Grawitz, in agreement with the leading doctor of the concentration camps, Lolling, appointed SS 1st Lt. Dr. Hoven as station doctor at Buchenwald. My presence in Buchenwald always lasted only a few days, while the experiments and the typhus epidemic lasted about 10 weeks.

Dr. Hoven had orders to get the prisoners (professional criminals sentenced to death), who had been released for the experiments from the Reich Security Office and the chief of the concentration camps, for vaccination or infection after an examination of their physical fitness.

As deputy, he often ordered Dr. Plaza to take over the guard of Block 46. Dr. Plaza, in addition, continued to work independently under Kapo Dietzsch.

For experiments that did not result in death, such as the effectiveness of yellow fever vaccine, 200 to 300 volunteers stood in readiness. This I know from rosters that Dietzsch showed me once. Such experiments did not only take place in the block but also, in a certain case, in the camp itself. For that experiment about 80 Dutchmen were taken; they did not have to work and they were given extra rations. For that they had to have their temperature taken three times daily and every two days they had to give 10 cc. blood for a blood count.

Hoven worked as my deputy until my permanent entrance into Buchenwald in August 1943. In September he was arrested.

In the year 1942 he had to work a lot by himself, since I contracted typhus and after that was sent to a rest home. Immediately after that I was detailed to the Pasteur Institute in Paris. During this time the sick reports bore the signature of Hoven or Plaza.

[Signed] Dr. Schuler

TRANSLATION OF DOCUMENT NO–571
PROSECUTION EXHIBIT 285

1943 WORK REPORT FOR DEPARTMENT FOR TYPHUS AND VIRUS RESEARCH

Weimar-Buchenwald, January 1944.

Hygiene Institute of the Waffen SS
Department for Typhus and Virus Research

Work Report for the Year 1943

I. *Division for Typhus and Virus Research, Clinical Section*

1 December 42 to 20 February 43	Experiment with typhus vaccines "EM" of the Behring Works, carried out on 20 experimental subjects.

10 January to 20 February	Experiment with typhus therapeutics, Acridine and Methylene Blue, carried out on 47 experimental subjects.
10 January to 17 May	Tests with yellow fever vaccines, carried out on 435 experimental subjects.
25 January to 28 April	Experiment with typhus vaccines "Riga" and "Zuerich," carried out on 40 experimental subjects.
24 March to 20 April	Performance of a large-scale experiment according to the scheme of the Hygiene Institute of the Waffen SS, carried out by SS Standartenfuehrer Lecturer Dr. Mrugowsky, with smallpox, typhoid, paratyphus A and B, cholera, typhus, and diphtheria, on 45 experimental subjects.
31 March to 11 April	Experiment with typhus therapeutics Acridine Granulate and Rutenol, carried out on 40 persons.
11 April to 24 May	Preliminary experiments with fresh blood infected with typhus for the purpose of investigating an infallible method of infection, carried out on 41 persons.
11 April—not yet terminated	Infections with typhus so far applied to 47 persons.
24 April to 1 June	Experiment with typhus therapeutics Acridine Granulate (2) and Rutenol (2) carried out on 40 experimental subjects.
28 May to 9 September	Experiment with typhus vaccines "Asid," "Asid-Adsorbat," and "Weigl" carried out on 70 persons.
10 June to 8 August	Experiment with typhoid therapeutics "Otrhomin," carried out on 40 experimental subjects.
8 November—not yet terminated	Gangrene—high immunization experiment, carried out on 15 experimental subjects.
19 November—not yet terminated	Experiments with burns by means of phosphorus-rubber incendiary bombs carried out on 5 persons.
21 November—not yet terminated	Control of blood conservation.
23 December to 31 December	Special experiment carried out on 4 persons.

II. *Division for Typhus and Virus Research, Production of Vaccines*

10 August	Termination of the exterior alterations on the prisoners' Block 50 in Buchenwald concentration camp.
16 August	Opening of the Division for Typhus and Virus Research. Transfer of the head of the department, SS Sturmbannfuehrer Dr. Ding to Buchenwald. Beginning of the preliminary work for production.

20 September	First infection of 3 guinea pigs with typhus-infected blood, strain Bu I. Up to the end of the year 8 successful infections from this strain and positive adaptation of the strain to mice (with only 2 infections due to lack of these experimental animals), as well as to the lungs of rabbits through mice with the brains of guinea pigs as starting material.
24 September	Isolation of the strain Bu II on 3 guinea pigs with typhus-infected blood. After successful adaptation at the end of the year 8th infection. Performance of 4 infections of mice. Great quantities of standard type Rickettsia. Furthermore successful adaptation of the strain Bu II to the lungs of rabbits through mice.
9 October	Due to lack of mice experiment to adapt the mixed strains Bu I and Bu II directly from infected brains of guinea pigs to the lungs of rabbits. At the end of the year this strain is contained fully virulent in the 6th infection of rabbits. Since the 5th infection, particularly, great quantities of Rickettsia on the lungs of rabbits. The results of the direct adaptation experiments are being checked by pathogenic and skin virulence tests.
12 October	Reported to the Hygiene Institute of the Waffen SS that the experiments for the breeding of Rickettsia strains on the lungs of rabbits were successful and production was only handicapped by the lack of the refrigerator and of the Calabeius meat-triturator model.
22 October	Isolation and transfer to guinea pigs of the strain Bu IV of subjects infected with typhus after strain Bu III had died during the first infection. In this case the lack of mice was once more especially noticeable.
First half of November	Outbreak of an epidemic among 375 recently supplied mice to which 289 animals succumbed within a few days. As the remaining mice were not healthy either, they were killed.
11 November	Vaccination of rabbits with infected lungs of mice. Later on, performance of two more infections of rabbits. Experiments are a complete success; large quantities of Rickettsia with well-developed bacilli-shaped elements on the lungs of the rabbits.

30 November	Successful direct adaptation of the strain Bu IV from the brains of infected guinea pigs to the lungs of rabbits. After performance of another infection of rabbits, mixing of the strain with the strain Bu I and Bu II. All infections continue to be successfully carried out.
4 December	Experiment, by making use of the night frosts and by using the handshake technique without refrigerator and without Calabeius, to produce the first sample of vaccine. For this purpose, lungs of rabbits of the 5th or 6th infection series of the mixed strain Bu I and Bu II, which are rich in Rickettsia, were used.
14 December	Centrifugation of the suspension produced on 4 December.
15 December	Starting of the refrigerator which had arrived in the meantime. Result of the examination of the sediment of the vaccine produced on 4 December: after 2 hours of centrifugation great quantities of Rickettsia (bacilli-shaped, point-shaped, dumbell-shaped). The sterility control proved the suspension free from bacteria.
17 December	4 guinea pigs were given intraperitoneal injections of 1 cc. of vaccine each, in order to check whether the vaccines produced on 4 December agreed with them. The guinea pigs did not show any alterations of voracity nor of temperature and were still alive at the end of the year.
24 December	Vaccination of a series of 10 guinea pigs, with our own vaccine and Giroud vaccine, in order to infect them later on with typhus-infected blood.
29 December	The reactions for skin virulence according to Giroud show a virulence of the suspension at a dilution of 1 : 2.000 to 1 : 4.000.

For the performance of the breeding experiments 56 mice, 134 guinea pigs, and 112 rabbits were used up to the present date.

In the serological department 1226 proteus OX 19 agglutinations, 3 Gruber-Widal tests, and 4 Takata-Ara reactions were performed for the SS infirmary and Buchenwald concentration camp and its branch camps.

For our own requirements up to this date, about 1,500 cubic cm. of typhoid-paratyphus B deposits have been produced, in order to reduce the power of resistance of the experimental animals.

III. *Inspections of the Division for Typhus and Virus Research*

8 February	Inspection of the clinical section by Oberstabsarzt Dr. Eyer of the Institute for Typhus and Virus Research of the Army High Command, Krakow and by Oberstabsarzt Dr. Schmidt of the Army Medical Inspectorate.
24 August	Inspection of the department by the Director of the Central Building Section of the Waffen SS and Police, SS Obersturmfuehrer Huehnefeld, and discussion of necessary improvements.
26 August	Inspection by the Higher SS and Police leader in Kassel, SS Obergruppenfuehrer and General of the Waffen SS, the Prince of Waldeck and Pyrmont, and by the commandant of Buchenwald concentration camp.
3 September	Inspection by the head of the Hygiene Institute of the Waffen SS, SS Standartenfuehrer Lecturer Dr. Mrugowsky.
29 September	Inspection by the Chief of Office D III in the SS Economic and Administrative Main Office (WVHA), SS Obersturmbannfuehrer Dr. Lolling and Professor Dr. Schenk.

IV. *Official Trips by the Head of the Division for Typhus and Virus Research*

28 February to 6 March	SS Obersturmbannfuehrer Dr. Ding ordered to Paris for the purchase of laboratory equipment for the Division for Typhus and Virus Research Weimar-Buchenwald, and for the Hygiene Institute of the Waffen SS.
27 April to 1 May	Once more on detached service to Paris for the same purpose.
25 June to 15 August	Ordered sick leave at Sellin on Ruegen.
27 August	Conferences with the Zeiss firm at Jena, with the Landesgewerbearzt and in the University Library.
4 September	Inspection in the village of "X" with the Head of the Hygiene Institute, SS Standartenfuehrer Lecturer Dr. Mrugowsky, with the Standortarzt of the Waffen SS Weimar-Buchenwald, and with the adjutant of the commandant of the Buchenwald concentration camp.
8 September	Another inspection in the village of "X".

16 September	Purchase of laboratory requisites at Jena, conference with the Zeiss firm concerning the alteration of 2 microscopes.
23 September	Purchase of laboratory requisites at Erfurt.
29 September to 4 October	Conference in Berlin with the Head of the Hygiene Institute of the Waffen SS, SS Standartenfuehrer Lecturer Dr. Mrugowsky.
13 October	Inspection at "Dora" and "Laura" with the commandant of the Buchenwald concentration camp.
21 October	Inspection of the branch commands Leipzig Wernigerode, Schoenebeck, and "Dora" with the camp commandant.
25 October to 15 November	On detached service with the German Hygiene Institute for the Eastern Territories in Riga, and subsequently conference with the Madaus firm in Dresden at the instance of SS Obergruppenfuehrer and General of the Waffen SS von Woyrsch.

SS Sturmbannfuehrer.

TRANSLATION OF DOCUMENT NO–121
PROSECUTION EXHIBIT 293

LETTER FROM HAAGEN TO HIRT, 15 NOVEMBER 1943, CONCERNING PRISONERS TO BE USED AS EXPERIMENTAL SUBJECTS FOR TESTS WITH TYPHUS VACCINE

15 November 1943

Secret

To: Professor Dr. Hirt
Anatomical Institute of the Reich University
Strasbourg

On 13–11–43, an inspection was made of the prisoners that were furnished to me in order to determine their suitability for the tests which have been planned for the typhus vaccines. Of the 100 prisoners that have been selected in their former camp, 18 died during transport. Only 12 prisoners are in such a condition that they can be used for these experiments, provided their strength can first be restored. This should take about 2–3 months. The remaining prisoners are in such a condition that they cannot be used at all for these purposes.

I might point out that the experiments are for the purpose of testing a new vaccine. Such experiments only lead to fruitful results

when they are carried out with normally nourished subjects whose physical powers are comparable to those of the soldiers. Therefore, experiments with the present group of prisoners cannot yield usable results, particularly since a large part of them are apparently afflicted with maladies which make them unsuitable for these experiments. A long period of rest and of good nourishment would not alter this fact.

I request, therefore, that you send me 100 prisoners, between 20–40 years of age, who are healthy and who are so constituted physically that they furnish comparable material.

Heil Hitler!

STABSARZT PROF. DR. E. HAAGEN

TRANSLATION OF DOCUMENT NO–122
PROSECUTION EXHIBIT 298

LETTER DICTATED BY ROSE, ADDRESSED TO HAAGEN, 13 DECEMBER 1943, CONCERNING EXPERIMENTAL SUBJECTS FOR VACCINE EXPERIMENTS

Professor Rose, Chief Surgeon.

O. U., 13 December 1943.

Stabsarzt Professor Haagen
Institute of Hygiene of the Reich University
Strasbourg, Alsace, Adolf Kussmaulstrasse 3

Dear Herr Haagen,

Many thanks for your letter of 8 December. I regard it as unnecessary to make a renewed special request to the SS Main Office in addition to the request you have already made. I request that, in procuring persons for vaccination in your experiment, you requisition a corresponding number of persons for vaccination with the Copenhagen vaccine. This has the advantage, as also appeared in the Buchenwald experiments, that the testing of various vaccines simultaneously gives a clearer idea of their value than the testing of one vaccine alone.

With best wishes,

Heil Hitler!

Yours

(Dictated by Prof. Rose and signed after his departure)

By order

[Signed] SCHWARZE
Private, 1st Class (Med. Corps)

TRANSLATION OF DOCUMENT NO–123
PROSECUTION EXHIBIT 303

LETTER FROM HAAGEN TO HIRT, 9 MARCH 1944, CONCERNING EXPERIMENTS CONDUCTED WITH TYPHUS VACCINE AND REQUESTING EXPERIMENTAL SUBJECTS

9 May 1944

Main Office SS
through Professor Dr. Hirt
Anatomical Institute of the Reich University Strasbourg

I enclose herewith a carbon copy of a paper on our experiments with a dry typhus vaccine. The paper was sent to the Chief of the Luftwaffe Medical Service as a manuscript, with the request for permission to publish it. It constitutes a report concerning further experiments with a typhus vaccine which has not been made sterile by chemical agents or by heating. As may be seen from the results, it has been possible to produce a vaccine which provides not only an antitoxic immunity but also a definite anti-infection immunity which is of particularly practical significance. However, it is clearly pointed out that vaccination is followed by a rather long fever reaction and, therefore, its introduction cannot yet be recommended. Further tests are now in progress to alter the vaccine so that, without losing its antigenic property, it will produce so weak a reaction that no general indisposition will result. These tests will be made by reducing the dose or by storing the vaccine for a longer interval.

To carry out this research, experimental subjects will again be needed. I, therefore, again request that subjects be furnished to me for this purpose. In order to obtain results which are accurate and which can be statistically evaluated, I ask that 200 persons be furnished to me for inoculation. I may point out that they must be in a physical condition similar to that of members of the armed forces.

It is highly desirable that I again be permitted to carry out these experiments at camp Natzweiler.

PROFESSOR DR. E. HAAGEN

TRANSLATION OF DOCUMENT NO–139
PROSECUTION EXHIBIT 317

LETTER FROM DR. GRUNSKE TO HAAGEN, 7 MARCH 1944, CONCERNING REPORTS ON YELLOW FEVER VIRUS EXPERIMENTS REQUESTED BY A JAPANESE MEDICAL OFFICER

High Command of the Navy
Flottenarzt Dr. Grunske

Berlin, 7 March 1944
Landgrafenstr. 12
Tel: 24 9591 Ext 241

To: Professor Dr. Haagen
Strasbourg
Hygiene Institute of the University

Dear Professor:

In connection with my letter of 26 February and your long distance telephone call of 6 March, I must advise you that the Japanese Oberstabsarzt has in the meantime contacted Oberstarzt Professor Dr. Rose of the Luftwaffe Medical Service, and that the latter has promised to secure for him from Strasbourg all the accounts concerning the yellow fever virus experiments which are important to him. Therefore, Oberstartz Dr. Rose will give you further details. I therefore ask that the matter be considered closed between us.

With fraternal esteem and

Heil Hitler!
Respectfully yours
[Signed] Dr. Grunske
Flottenarzt

TRANSLATION OF ROSE DOCUMENT 16
ROSE DEFENSE EXHIBIT 12

EXTRACTS FROM THE AFFIDAVIT OF PROFESSOR OTTO LENZ, DIRECTOR OF THE ROBERT KOCH INSTITUTE IN BERLIN

* * * * * * *

Professor Rose was not the "typhus expert" of the Robert Koch Institute, nor did he work on typhus there. But he was the Chief of the Department of Tropical Medicine, and was in this capacity, with the exception of one field of research, (that of the transmission of dysentery and typhoid bacilli by insects) exclusively concerned with tropical diseases and parasites (insects).

The typhus expert of the institute was rather Professor Haagen, the Chief of the Virus Division. After his departure, following his

appointment to the Chair of Hygiene at Strasbourg University, Professor Gildemeister, the then President of the Institute, continued the research on typhus.

Thus, various physicians, among them Dr. Ding, received instruction on typhus from Professor Haagen in the Virus Division, but *not* from Professor Rose.

Owing to the destruction by air raids of many of the files of the Robert Koch Institute, I can no longer ascertain whether Professor Rose was associated with the decisions taken on typhus experiments.

Several of the men who were at that time departmental chiefs, however, assured me unanimously, that this had *not* been the case.

* * * * * * *

Finally, nothing is known of Professor Rose's having had the opportunity to become aware of Geheimrat Lockemann's chemotherapeutical experiments (chemotherapy of abdominal typhoid with otrhomin). The only research on abdominal typhoid carried on in Rose's department consisted of the experiments on the role of the house fly in the transmission of dysentery caused by bacteria and of abdominal typhoid.

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TRANSLATION OF ROSE DOCUMENT 46
ROSE DEFENSE EXHIBIT 20

EXTRACT FROM A CERTIFIED STATEMENT, 4 MARCH 1947, OF J. OERSKOV, M. D., DIRECTOR OF THE STATE SERUM INSTITUTE IN COPENHAGEN

* * * * * * *

In answer to questions asked us about the visit of Professor Rose, I can say the following:

to 1. Did Professor Rose, when he visited the Institute at the end of September 1943, request the Copenhagen Institute to take up the production of the typhus vaccine from R. pr. in order to help overcome the great shortage of typhus vaccine? Yes.

to 2. Was this request refused by Director Oerskov for valid reasons? Yes.

to 3. Was R. then taken to visit Dr. Ipsen's section?

I do not remember this, but it is apparent from Dr. Ipsen's experimental records that Professor Rose actually was in Dr. Ipsen's laboratory on 24 September and probably discussed these problems with him. Unfortunately, Dr. Ipsen is at present in America on a study trip and will not return before June or July. It is, however, apparent from our records that if Profesor Rose ever received samples of our vaccine it could only have been a small quantity, and neither I nor Dr. Ipsen's

colleagues have ever heard anything of the possible effects of our vaccine.

Through the Danish Red Cross we sent our vaccine to Danish as well as to Norwegian prisoners of war camps, so that the vaccine was given only to Danish or Norwegian colleagues. We heard from Danish colleagues that the effect of these vaccinations was good.

I can add that I am grateful to Professor Rose because he probably helped to prevent our Institute's being compelled to take over the production of typhus vaccine. It is entirely unpredictable what calamities might have arisen if we had been forced to take up the production of this vaccine.

[Signed] J. Oerskov
Director of the State Serum Institute
Not. K. J. No. 1974/47

EXTRACTS FROM THE TESTIMONY OF PROSECUTION WITNESS EUGEN KOGON*

DIRECT EXAMINATION

* * * * * * *

Mr. McHaney: Now, will you please explain to the Tribunal in your own words exactly how these typhus experiments were carried out.

Witness Kogon: After 40 to 60 people, sometimes up to 120, had been detailed for a series of experiments, one-third of them were separated, and the other two-thirds were either vaccinated with a protective treatment, or it was otherwise administered to them, if it was a chemical therapeutical treatment. Those people who were protected against typhus remained in Block 46 for several weeks until their infection with Rickettsias Prowazeki, the typhus agent. The first selection, that is to say, the first third, was also infected together with them. They served as so-called control persons, with the help of whom it was possible to ascertain whether the infection took and what course the disease took in their cases, so that this course could be compared with that of those who had been vaccinated and then infected. The infection was performed in various ways. Either typhus was transferred through fresh blood injected intravenously or intramuscularly. At the beginning, too, by scratching the skin, or by making a small incision in the arm. In the initial stages, two cubic centimeters of fresh blood infected with typhus were used for the infection, unless the infection concerned was one with an infectious solution. Two cubic centimeters of fresh blood containing typhus were then usually injected into the veins. Later on that dosage was reduced to $\frac{1}{20}$ of 1

*Complete testimony is recorded in mimeographed transcript, 6, 7, 8, 9 Jan. 1947, pp. 1151–1383.

cubic centimeter because the large quantity of 2 cubic centimeters would penetrate any security achieved by the vaccination. Even 1/20 of a cubic centimeter of fresh blood containing typhus was usually enough to produce a very high degree of typhus if injected into the veins. In the course of years the typhus cultures used at Buchenwald had been cultivated from man to man and had increased their strength, their virulence to a considerable degree, so that the very smallest quantity was sufficient. I suggested to Sturmbannfuehrer Dr. Ding in 1944 that in order to increase the scientific value he should reduce the quantity of these injections to the extreme minimum so that the so-called threshold value could be ascertained—in other words, so that the artificial infection should be as similar to normal infection by lice as possible. He turned this suggestion down because he believed that then no convincing proof could be achieved of the real strength of the protective treatment used. A third category of the experimental persons was used to maintain the typhus cultures. Those were the so-called passage persons, amounting to three to five persons per month. They were merely infected for the purpose of ensuring a constant supply of fresh blood containing typhus. Very nearly all those persons died. I do not think I am exaggerating if I say that 95 percent of these cases were fatal.

Q. Witness, do you mean to say that they deliberately infected three to five persons a month with typhus just to have the viruses alive and available in blood?

A. Just for that particular purpose.

Q. Can you tell the Tribunal approximately how many of those persons died who were infected just to keep the viruses alive?

A. From the so-called passage persons, as I have already said, between three to five were used per month, that is, when I was working for Dr. Ding-Schuler—every month until the end of the Buchenwald concentration camp. That is to say, from April 1943 until March 1945. As far as the previous period is concerned, I only know that passage persons had been used, but I do not know the figures.

Q. Now, Witness, were experimental persons also infected with lice?

A. As far as I know, only one single experiment took place in Buchenwald where an original infection with typhus was performed with lice. The infected lice were brought from the OKH Institute in Krakow by a courier and were taken to Block 46. There they were kept in small cages which were applied to the the thighs of the experimental persons, and a number of persons, I do not know how many, were infected. Some of our comrades let a few lice escape in a room of Block 46, but they kept them under control and reported to the Kapo that infected lice had escaped from the cages. Kapo [inmate trusty] Arthur Dietzsch immediately reported this to the camp physician, Dr. Hoven, who was deputizing at that time for Dr. Ding-Schuler.

Dr. Hoven, following Dietzsch's advice, then ordered the destruction of these infected lice. A second delivery from Krakow was also burned because it was not desired that experiments should be performed which entailed such danger for the camp.

* * * * * * *

Q. Can you tell the Tribunal whether these experimental subjects suffered to any appreciable extent during the course of these typhus experiments?

A. There we must draw a strict dividing line between the general mental condition of such experimental persons and the physical condition caused by this disease. Every man in the camp knew that Block 46 was a dreadful place. Only a very few people in the camp had an exact idea of what was going on in Block 46. A dreadful horror seized anyone who was brought into any kind of connection with this block. If people were selected and taken to Block 46 through the sick bay, then they knew that the affair was a fatal one. The untold horror which was attached to this block made things even worse. Apart from this, it was generally known in the camp that Kapo Arthur Dietzsch exercised iron discipline in Block 46. There the cat-o'-nine-tails really ruled supreme. Everyone, therefore, who went to Block 46 as an experimental person did not only have to expect death, and under certain circumstances a very long drawn out and frightful death, but also torture and the complete removal of the last remnants of personal freedom. In this mental condition these experimental persons waited in the sick bays for an unknown period of time. They waited for the day or for the night when something would be done to them; they did not know what it would be, but they guessed that it would be some frightful form of death. If they were vaccinated, then sometimes the most horrible scenes took place, because the patients were afraid the injections were lethal. Kapo Arthur Dietzsch had to restore order with iron discipline. After a certain period, when the actual illness had set in after the infection, ordinary symptoms of typhus would appear, which, as is well known, is one of the most serious illnesses. The infection, as I have already described to you, became so powerful during the last two and a half years that the typhus almost always appeared in its most horrible form. There were cases of raving madness, delirium, people would refuse to eat, and a large percentage of them would die. Those who experienced the disease in a milder form, perhaps because their constitutions were stronger or because the vaccine was effective, were forced continuously to observe the death struggles of the others. And all this took place in an atmosphere hardly possible to imagine. Just what happened to those people who survived the typhus was something which they did not know during the period of convalescence. Would they remain in Block 46 to be used for other purposes? Would they be used as assistants? Would they be feared

as surviving witnesses of the experiments on human beings and therefore killed? All this was something which they did not know and which aggravated the conditions of these experiments.

EXTRACTS FROM THE TESTIMONY OF DEFENDANT ROSE*

CROSS-EXAMINATION

* * * * * * *

MR. MCHANEY: When did you first learn that Haagen was conducting experiments on concentration camp inmates?

DEFENDANT ROSE: That Haagen was performing experiments on concentration camp inmates? I don't believe that even today, but I knew that he carried out vaccinations in concentration camps. I cannot remember when I first learned of it—probably in 1943.

Q. Well, you remember the letter in December 1943?

A. I certainly must have known it by then because there I refer to it.

Q. Well, did you know about this sordid occasion when Haagen had 18 men who had been assigned to him die on transport?

A. I never learned anything about that at the time. I found it out from the files. I never knew that prisoners were especially taken to these concentration camps in order to be vaccinated.

Q. What would you have done if you had known about it? Wouldn't that have given you an indication that maybe things were not so nice in the concentration camp, or maybe proper care wasn't being taken of the inmates in these experiments?

A. If I had learned anything about it I probably would have reacted exactly as Haagen did. The documents he wrote to the SS office prove that one cannot conduct any experiments of any consequence on such unfortunate people. The record is in the documents here. If I had learned about it, I would probably have reacted in exactly the same way, perhaps more violently.

Q. Well, I should have hoped so.

A. I beg your pardon. I didn't understand you.

Q. I should have hoped you would have reacted somewhat more violently than Haagen apparently did.

A. That is possible. Our temperaments are different.

Q. You recall Fraeulein Eyer testified that Haagen sent reports every three months to the Medical Inspector of the Luftwaffe. Do you agree to that testimony?

A. I heard the testimony. Yesterday in my direct examination I commented on it. If Haagen had reported every three months I certainly wouldn't have forgotten it. I had many things on my mind

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*Complete testimony is recorded in mimeographed transcript, 18, 21, 22, 23, 24, 25 April 1947, pp. 6081–6484.

during the war, but such an exemplary condition of reporting would certainly have impressed itself on my memory. It is quite out of the question that the Medical Inspectorate received a report from Haagen every 3 months. I said yesterday that I consider Fraeulein Eyer's testimony quite credible, because in view of the number of offices with which Haagen was in connection, and from which he received reports, there were so many reports and accounts necessary that it is a marvel that Fraeulein Eyer didn't say she had to write a report every month. I explained with the aid of the documents what obligation to report is apparent from the documents alone. You probably haven't had an opportunity to read the record yet, but as soon as the record is ready you will be able to see that. I don't think there is any purpose in holding up the proceedings with that any further.

Q. And you are quite clear that Haagen never suggested to you that he was going to carry out infection experiments with typhus after vaccination?

A. That is not known to me.

Q. Let's have a look at Document NO–1059. This will be marked as Prosecution Exhibit 490 for identification. Now, will you please read this letter in a loud and resonant voice?

A. Perhaps I may see the photostat.

Q. Will you read the letter aloud, please?

A. (Reading)

"29 November 1943—Registered

"To Oberstarzt Professor Dr. Rose

"Inspectorate of the Medical Service of the Luftwaffe

"Saalow (Post Office Zossen-Land)

"Dear Herr Rose:

"Enclosed I am sending you the report about our experiments with dehydrated typhus vaccine which I promised you several days ago. As I intend to publish the findings, I have already written the report in manuscript form. After it has been reviewed, I would like it to be submitted to the competent authorities for their approval of its publication in the 'Zentralblatt fur Bakteriologie' [Central Periodical for Bacteriology].

"One hundred persons from a local concentration camp were put at my disposal for immunization and subsequent infection. Unfortunately, these people were in such a poor physical condition that eighteen of them already died during transport; the remainder were likewise in such bad physical shape that they could not be used for inoculation purposes. In the meantime I have requested 100 additional persons from the SS Main Office, who should, however, be in a normal physical and nutritional condition, so that the experiments can be carried out on material which at least approaches the physical condition of our soldiers.

"For the time being, we will concentrate on an epidemic culture in the form of a virus, which we have received from Giroud in the meantime. This seems to be a very good culture.

"With best regards,

"Heil Hitler!

"Yours —

"Enclosure: one report."

And no signature.

This is the matter which I discussed yesterday. Haagen's plan to test the inoculation reactions to his live and virulent dry vaccine by prevaccination with dead vaccine to weaken the reaction. That is the same matter.

Q. I thought you said about two minutes ago that you didn't know of the incident where eighteen of the inmates put at Haagen's disposal had died during transport.

A. Yes, that's true. That's what I said. I had forgotten about it. I thought that I had learned it for the first time from the records. If I had remembered it, I would, of course, not have exposed myself by denying it. But now I see this letter. It is obviously a carbon copy. I must assume that on 29 November 1943 the mail was still fairly normal, and that I received the letter, since a report is mentioned which I was to deal with. It was apparently one of Haagen's papers on his dry vaccine, on which my knowledge is based and on account of which I can give any information here at all as to Haagen's experiments. This knowledge of mine goes back to these papers of his which he wanted to publish.

Q. It would appear that in spite of your fiery temperament your reaction was even less significant than Haagen's himself, wouldn't it?

A. Since I was not concerned in the matter, as it was something between Haagen and the concentration camp, there was no reaction in this case. If somebody else tells me that he has had direct contact with abuses, then there is no occasion for me to interfere, since that is settled between the persons concerned. I had nothing to do with the concentration camps. I did not have to carry out any inoculations there.

Q. And you insist that the words, "one hundred persons from a local concentration camp were put at my disposal for immunization and subsequent infection" really don't mean subsequent infection at all, but a subsequent immunization?

A. With the live and virulent dry vaccine, yes.

Q. Well, that is certainly an inarticulate way of saying that, isn't it?

A. This is correspondence between experts, and they know what it's about.

Q. You state yourself that you are still not sure exactly what Haagen did, although you were down there in the middle of 1943 and got him back on the pay roll of the Luftwaffe, and you knew he was staying at the laboratory and you knew he was going to work on typhus vaccines, but you now sit here and say you don't know exactly what he was doing.

A. Yes. That is true. I have given considerable information here about Haagen's work, and I have gone to considerable pains to get it all together; but of course I can't give you complete information, simply because all these experiments were not under our direction and supervision.

Q. Herr Professor, the first time the question of subsequent infection came up was in a letter dated 1944, and you spent the best part of a day rationalizing "subsequent infection" as meaning something entirely different—that it was simply a subsequent vaccination, after the man had already been vaccinated by the dead vaccine. Now, if you were told on 29 November 1943 that he was going to carry out immunization and subsequent infection experiments, you certainly would have known as a matter of fact what he was doing, and you would not need to speculate on this stand as you did yesterday. These words are entirely susceptible to the meaning that they mean exactly what they say.

A. At this stage of his experiments Haagen did not yet have a fully developed vaccine. He was working exclusively on the problem of weakening the reaction to this live virulent vaccine. That was the problem he was dealing with at the end of 1943 and the beginning of 1944. He was looking for various methods of achieving this aim.

Q. What does he mean in the last paragraph when he says, "For the time being, we will concentrate on an epidemic culture in the form of a virus, which we have received from Giroud in the meantime"?

A. That means that up to that time he had worked with a murine strain, and that now for the development of the dry vaccine he wanted in addition to use a strain of Rickettsia-Prowazeki.

Q. Well, I now want to point out to you again that I am having considerable difficulty in construing the word "infection" to mean vaccination.

A. Yes. I admit that many of these documents are written in a confusing way, but I believe that I can remember the whole matter adequately enough to know what the problem is. The vaccine was not developed enough to be used in vaccination without reaction and then to determine the effect. There were strong fever reactions, and the problem was how to avoid this fever reaction.

Q. Well, why call that infection?

A. That is a similar condition biologically. An injection of a live, a virulent vaccine, from the biological point of view, is an infection. This expression is used often enough, but it is an infection which one can absolutely control.

Q. And after receipt of this letter, you then wrote him on the 13th of December—and this is Document NO–122, Exhibit 298—you sent him the Copenhagen vaccine, didn't you, and asked him to test it in his experiments on his concentration camp inmates, didn't you, just as they did in Buchenwald, as you put it?

A. I beg your pardon?

Q. You sent him the Copenhagen vaccine after receiving this letter of 29 November, and asked him to test that in his experiments on concentration camp inmates.

A. When this discussion of the Copenhagen vaccine took place, Haagen was specially interested in it, because it was a murine vaccine; and since he could not yet control fever reaction with murine vaccine—he only succeeded in doing that at the beginning of 1944 by storing the vaccine for a considerable time—he was no longer interested in this Copenhagen vaccine. But at the end of 1943, when he still had the same difficulties as Blanc with the reactions with the live murine vaccine, he was considerably interested in the Copenhagen vaccine. For it was the only vaccine from murine virus available in Europe at the time.

Q. You sent it to him, told him to test it just like they did in a series of experiments in Buchenwald, didn't you?

A. I don't remember that.

Q. Well, you remember mentioning Buchenwald to Haagen in your letter of 13 December 1943?

A. Oh, that's what you mean. Yes, I pointed it out as a parallel, because several vaccines were tested in Buchenwald for their effect against infection, and Haagen in Strasbourg wanted to test various vaccine for their reaction effect.

Q. You sent that Copenhagen vaccine to Buchenwald also to be tested?

A. No.

* * * * * * *

Q. Herr Professor, did Mrugowsky ever request you to give him vaccines for use in typhus experiments?

A. No.

Q. Did you ever discuss the question as to whether the louse could be infected by a vaccinated typhus patient with the defendant Mrugowsky?

A. That could be possible. This question played an important role for a time in the discussion about the vaccines and their effective-

ness. We had some old Polish observations available to the effect that if vaccinated persons received typhus in spite of the vaccination, no further illnesses could be transferred by such persons. It is possible throughout, since this question was of considerable importance that something like that could well have been discussed by Mrugowsky and myself. We talked a lot about that question.

Q. Did you ever negotiate with Mrugowsky concerning vaccines to be tested in Buchenwald?

A. No.

Q. Let's look at Document NO–1754.

(Document submitted to the witness.)

MR. MCHANEY: I will ask that document NO–1754 be marked as Prosecution Exhibit 491 for identification.

Q. (Continuing) Herr Professor, will you read this document aloud?

A. "Hygiene Institute of the Waffen SS; Journal No. 795/42

"Berlin W 15, Knesebeckstrasse 43/44; 16 May 1942

"To Oberfeldarzt Professor Dr. Rose; Berlin N. W., Foehrerstrasse 2

"Robert Koch Institute

"Dear Professor:

"The Reich Physician SS and Police has consented to the execution of experiments to test typhus vaccines. May I therefore ask you to let me have the vaccines?

"The other question which you raised, as to whether the louse can be infected by a typhus patient vaccinated for protection, will also be dealt with. In principle, this has also been approved. There are, however, still some difficulties at the moment about the practical execution, since we have at present no facilities for breeding lice.

"Your suggestion to use Olzscha has been passed on to the personnel department of the SS Medical Office. It will be given consideration in due course.

"With kind regards, and

"Heil Hitler!

"Yours

"Dr. MRUGOWSKY, SS Obersturmbannfuehrer."

There is a footnote to this letter, and I quote:

"According to telephone inquiry, Dr. Mrugowsky asks to be called by telephone after Professor Dr. Rose's return. Dr. Mrugowsky will not be in Berlin in June. His deputy, Dr. Ding, is informed. 20 May 1942."

This letter shows that Dr. Mrugowsky once informed me that the Reich Physician SS and Police had consented to the testing of typhus vaccines. He then asks me to send him these vaccines. I cannot recall what vaccines he is speaking of.

Then the question is discussed about lice being infected by typhus patients vaccinated for protection.

I admitted that a possibility exists, and I said that this question was at one time discussed with me.

The final paragraph says that one of my assistants had been drafted into the Waffen SS and that I endeavored to have him used in the hygiene service.

Q. Herr Professor, let's go to the footnote first. What are the initials "B. L." at the end of that footnote for? Isn't that Frau Block?

A. Yes, that would be Frau Block, yes.

Q. And Frau Block has been in touch with Dr. Mrugowsky. She notes that Dr. Ding, who I suppose you will admit is Dr. Ding, has been informed. In view of this note we can pretty well disregard the testimony of your witness Frau Block before this Tribunal, can't we? She testified that you had not corresponded with Mrugowsky, didn't she?

A. She said that she could not recollect any correspondence with Mrugowsky, but you will see from my documents which you have before you, that this correspondence in effect was so small that it is quite understandable if she does not remember it in detail. It is a result of my express order that you have these documents available. I ordered that in my institute at Pfaffenrode no documents should be destroyed under any circumstances. There is a written document available to show that I gave such an order.

Q. Herr Professor, this letter is in response to one which you wrote to Mrugowsky, isn't it?

A. That's possible.

Q. And in the letter that you wrote to Mrugowsky you asked him to have the Bucharest vaccine tested in Buchenwald, didn't you?

A. I told you before in great detail that I could not remember this matter about the Bucharest vaccine. If you have a letter before you about this matter, it would, of course, give me a possibility to refresh my memory.

Q. I should think this letter would refresh your memory, Herr Professor, particularly in view of the Ding diary, which has an entry shortly following the date on this letter where Ding carries out his experiments with the Bucharest vaccine among others, and says in the diary that the vaccine was obtained from you; and Mrugowsky in

this letter asked you to send him the vaccines which you have mentioned in your previous letter. There's really no doubt about it, is there, Professor?

A. This possibly becomes apparent.

Q. And was this person Olzscha mentioned in the letter? Was he to assist in Buchenwald?

A. He was to be used in the hygiene service. Since he particularly dealt with entomological questions, I asked that he should work on these questions there.

Q. You got a report from Ding, too, on these experiments testing the Bucharest vaccine, didn't you, Professor?

A. I cannot remember that, and I already told you once that had I received any such report, I would have drawn the conclusions from it; and since I did not do that, I think it is improbable that I received such a report.

Q. In view of this letter, Doctor, do you want to go back and change your testimony about the Copenhagen vaccine? Didn't you also suggest those experiments, and didn't you also supply the Copenhagen vaccine for the experiments in Buchenwald?

A. No. I have no intention of doing that.

Q. Well, in that event I will ask that Document NO–1186 be passed up to you, and this will be marked as Prosecution Exhibit 492 for identification. Will you read this letter aloud please?

A. "Oberstarzt Professor Rose

O. U., 2 December 1943

"To Standartenfuehrer Dr. Mrugowsky,
"Head of the Hygiene Institute of the Waffen SS
"Berlin-Zehlendorf 6
"Spanische Allee 10
"Dear Herr Mrugowsky:

"At present I have at my disposal a number of samples of a new murine virus typhus vaccine which was prepared from mice livers and proved in animal experiments to be quantitatively a thousand times more effective than the vaccine prepared from mice lungs. In order to decide whether this first-rate murine vaccine should be used for protective vaccination of human beings against lice typhus, it would be desirable to know if this vaccine showed in yours and Ding's experimental arrangement at Buchenwald an effect similar to that of the classic virus vaccines. Would you be able to have such an experimental series carried out? Unfortunately, I could not reach you over the phone. Considering the slowness of postal communications I would be grateful for an answer by telephone. My numbers, all of which go through the same switchboard, are:

Berlin 278313; Rapid Exchange Berlin 90, Zossen 559; Luftwaffe Exchange 72, there you ask for RLM, L In 14.
"With best regards

"Heil Hitler!

"Yours

"Rose"

The signature which you see on this photostatic copy is, in effect, my signature. This letter shows that I also informed Mrugowsky about the Copenhagen vaccine, which I did not remember up to this point.

Q. And you asked him to test the vaccine in Buchenwald didn't you?

A. The question of whether this vaccine can be tested in Buchenwald is dealt with here.

Q. Do you see the name "Ding" written at the bottom of the letter?

A. Yes, it is at the bottom of the page.

Q. And it appears that the testimony of Kogon was very precise, wasn't it, because Ding got a copy of this letter, didn't he?

A. Yes. Ding's utterances do not only refer to my memorandum but also to the correspondence between Mrugowsky and myself. Apparently it was then transferred to the Reichsarzt SS.

Q. Is the date on this letter 2 December 1943 or 12 February 1943—and I direct your attention to the receipt stamp on the letter which is 21 February 1944?

A. The difference between the two dates can be explained by the fact that a considerable time had elapsed between the sending of my letter and when this letter finally reached Ding. During this time the competent agency dealt with the matter of the approval and execution of the experiments on human beings.

Q. So you maintain that 2 December 1943 is the correct date on the letter?

A. Certainly. That is certainly the correct date.

Q. On the basis of the two letters which I have exhibited to you, you will concede that the Ding diary was precisely accurate in what it said, won't you?

A. No, one can't conclude that just like that. The order to carry out experiments in Buchenwald could not be issued by me in any way.

Q. That's very clear—

A. That vaccines were requested from me seems to be evident from one letter. I didn't remember it and I still don't remember it now, but on the basis of this letter one has to consider that fact proved. Then it also becomes evident that in this case I drew the attention of Herr Mrugowsky to this vaccine, and that I mentioned a discussion dealing with human experiments regarding these vaccines.

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Q. Professor, 6 persons died in this experiment with the Copenhagen vaccine, didn't they?

A. Yes. These were 6 persons who were furnished by the Reich Criminal Police Office through the regular channels after they were chosen by the competent agencies.

EXTRACT FROM THE TESTIMONY OF DEFENDANT MRUGOWSKY*

DIRECT EXAMINATION

* * * * * * *

DR. FLEMING: Will you please draw the necessary conclusions from what we have discovered about Ding's diary?

DEFENDANT MRUGOWSKY: The various erroneous entries in this document and the facts which the handwriting experts have discovered prove that this document is not a diary in which entries were made from time to time. Rather there are long periods of time that are missing, sometimes periods of more than one year before the entries were made. Pages 1 to 3, I believe, were all written at the same time, and also the subsequent pages. The document has 27 pages, which were written down on only a few occasions. That is testified to by the handwriting expert. This explains the various discrepancies between the entries and the actual facts; for instance, calling the Robert Koch Institute a Reich Institute, when it wasn't, etc. The testimony of a prosecution witness, Balachowsky, corroborates this affidavit.

Q. This affidavit is Document NO–484, Prosecution Exhibit 291. Balachowsky said, under number 29: "The file notes which were copied into the diary shortly before the collapse, give the precise number of the pages and the number of the experiments." Now please continue.

A. In these words Balachowsky corroborates the fact that this diary, namely, this diary of Block 46, was drawn up shortly before the collapse, apparently on several days, consequently the difference in the typewriters used. Now, as to why he did this I can only conjecture—I do not know. That there was some reason for making the entries in this form would appear to be obvious.

Q. For the explanation of why Ding wrote this diary on Block 46 let me remind you of Kogon's testimony, namely, that after 1943 Ding was sure that the war would be lost.

A. Yes. That is true. During his testimony Kogon often stated that from the beginning of 1943 on, Ding made efforts to cover himself. He also said that from that moment on, the oral assignments that he received were not sufficient, but that he must insist on receiving written orders. All the more remarkable is it then that the so-called

*Complete testimony is recorded in mimeographed transcript, 26, 27, 28, 31 March 1947, pp. 5000–5244.

diary, this NO–265, says only very infrequently who initiated the various lines of experimentation. And, if I recall correctly, he does not once say who ordered them.

Q. Then do the contents of this diary meet the normal requirements of a scientist's diary?

A. The diary of a scientist has the purpose of setting down the precise course of the work undertaken. Consequently, all efforts regarding the initiation and course of experiments should be set down. That is a perfectly comprehensible custom in all institutes because subsequently the evaluation of the experiments is based on entries in the scientific institute's diary. In this Document NO–265, however, which is allegedly such a diary of Block 46, there is not one entry regarding the actual course of the experiments; not even the results of the experiments are set down there. That is really the least that you could ask of such a diary. Dr. Kogon thought that the number of fatalities which are set down with clear precision were a result, to be sure, an unhappy result, of these experiments. That these events are found lamentable can hardly be disputed, but it is a false point of view if one orients oneself on the basis of this result toward something, the purpose of which was entirely different. The real experimental result can be seen in the following: as a consequence of the protective vaccination, what happens during a subsequent case of infection is that firstly, the period of incubation is prolonged, namely, that period of time which lapses between the actual infection and the first appearance of the disease. Secondly, the period of fever is shortened, whereas usually the period of fever in typhus is 17 days. This protective vaccination reduces it to 12, 10, and even 6 days, depending on the strength of the protective vaccine. At the same time, the height of the temperature is reduced. In other words, the symptoms that are associated with fever, which effect the blood circulation and the heart, as well as those which effect the central nervous system, are less pronounced or altogether absent after the protective vaccine. There are various other small clinical indications which a doctor readily recognizes as a result of the protective vaccine, and it must be said that as the result of less serious clinical manifestations, the number of fatalities from typhus is smaller. That is not a direct but an indirect consequence of vaccination. Therefore, when Ding asserts in this block diary of Block 46 that the most important result of the experiments was the number of fatalities, then every doctor will recognize this as such an erroneous and distorted statement that even if it is made by a doctor so reliable as Ding, it is completely unworthy of credence.

Q. I now show you Mrugowsky 9 and I put it in as Mrugowsky Exhibit 23. It is a photostat of a paper by Dr. Ding on the protective action of various vaccines on human beings and the course of typhus after immunization. I do not wish to read the document but simply

desire to bring it to the attention of the Tribunal. Would you care to make any statement about the inadequate way in which this diary was worked on? Would you like to say that perhaps Ding was not in a position to carry on such work?

A. This paper is 13 pages long. First, there is the manner of the patient's tolerance for the vaccine, then the individual points which I just mentioned as the consequences of the protective vaccination are gone into. Tables are presented which give statistics in these matters. There are eight sketches giving graphs showing the results; and at the very bottom on the next to the last page, in the next to the last paragraph, there are three lines which say that the fatalities in the cases of those vaccinated were fewer in number than among those not vaccinated. That is all mentioned in the summary—there is a final summary. This is also an indication that he was perfectly capable of carrying on scientific work. I should like to point out that at the top of this paper it is mentioned that this work was done in my institute in Berlin. I say that as an indication that I laid no stress on keeping these matters secret in any way or that it was my point of view that these experimental results which had been achieved on the most expensive of all material, namely, human beings, should be carried through to conclusion and that results should be made available to all who are interested.

Q. The prosecution also charges you with the fact that Ding infected persons in Buchenwald who had not previously received the protective vaccination. Would you like to make a statement on that subject?

A. The following cases come into question here on the basis of Ding's diary entries. First of all, there are the so-called "preliminary experiments". In Document NO–265, four such preparatory experiments are mentioned on nonvaccinated persons. These were done in order to ascertain what method was possible in order to artificially infect human beings with typhus. I always found that the lay person who had never concerned himself with these matters assumes it to be a matter of course that it is always possible to infect a human being with a disease. That, however, is by no means the case. Even in the case of such a toxic material as the typhus germ, successful infection can only occur if it is not directed directly into the blood stream. Unless another way is chosen, it is usually impossible to bring about infection with such a disease. Consequently, when such experiments are to be carried out on human beings—and this is a point of view which I express without any reference to my own person—then such preliminary experiments cannot be dispensed with. The second case is the so-called "controlled cases".

Q. Did you know anything of these preliminary experiments?

A. No. I found out about them only through the diary.

Q. Ding says in his diary under the 20th of February 1942: "Case histories and curves on the preliminary experiments were sent to Berlin." Did you receive this report?

A. No. Nor do I believe Ding sent it to me, because he was not subordinate to me in these experiments and it seems, therefore, more probable to me that he sent them to Grawitz. I, at any rate, did not see them.

Q. How can this be reconciled with your letter of 5 May 1942 to Conti and others which I put into evidence this morning as Mrugowsky 10, Mrugowsky Exhibit 20?

A. This letter corroborates what I have just testified to, because the report on this series of experiments was sent to Grawitz, and I received Ding's report to Grawitz from Grawitz himself with the order to rewrite it in a suitable form, since Grawitz did not wish outside persons to be able to see, without any further trouble to themselves, that these were really experiments on human beings with artificial infection. He knew that, to some extent, I could master the style which he used in his official communications, whereas he did not know whether Ding could or not. Consequently, he commissioned me to take Ding's original report and to cast it in a suitable form for the purpose of making communications to the manufacturing firm. This I did, and the result is this document dated 5 May 1942.

Q. Your letterhead here is "Reich Physician SS and Police, Chief Hygienist". In other words, this is one of the cases in which Grawitz made use of you when you still belonged to the medical staff of the Waffen SS?

A. Yes.

Q. Why didn't Grawitz rephrase the letter himself?

A. There may have been two reasons for that. Firstly, Grawitz was not a hygienist but an internist and since the letter was being sent to specialists, namely, to those people who manufactured the vaccines, he wanted to be sure that the letter contained everything they needed to know and, on the other hand, no more than they needed to know; secondly, this is quite in line with his customary manner of working, namely, to let his collaborators write letters which dealt with their particular sphere of work, and for this reason, he commissioned me to indite this letter.

Q. On this occasion did you not once again express objections to Grawitz regarding experiments on human beings?

A. That I did not do because this series of experiments had been concluded and because I knew that they had been carried out on Himmler's specific orders. This was the first series of experiments which had ever been carried out and it was the reason for my very

violent show-down with Grawitz at that time. I assumed that this job was now completed and I had no reason to raise further objections.

Q. Were the vaccines of the Behring Works in an experimental stage when Dr. Ding used them in his experiments?

A. No; these vaccines had already been tested in the plant as to a person's tolerance for them. All such preparations of the Behring Works were worked on in their own laboratories before they were sent out into the world.

Q. I submit to the Tribunal Mrugowsky 44, and I put it in as Mrugowsky Exhibit 24. This is an affidavit by Dr. Demnitz, the manager of the Behring Works, regarding the way in which the vaccines of the Behring Works were developed and how they were tested in the institute itself. On the fourth page, it reads:

"Naturally, the Behring Works also carried out tests to establish whether the vaccines agreed with human beings for (*a*) it was necessary to vaccinate those people working in the typhus laboratories in order to protect them against typhus; (*b*) it was necessary to protect those people who attended the experimental animals; and (*c*) the undersigned himself was vaccinated against typhus on several occasions with vaccines of the Behring Works. These vaccinations had to be repeated from time to time. This concerned both German and Russian assistants. About 20 to 25 persons were employed in our typhus department."

And Number 6: "The animal experiments according to Otto proved: (*a*) the harmlessness and (*b*) the effectiveness or insufficient effectiveness."

It stated previously, "the question of whether the animals showed a positive reaction is incomprehensible." It stated also that animal experiments were carried out in the Behring Works. I submit this document to prove these were not vaccines which had not been previously tested, but were vaccines which had gone through the necessary preliminary and effective testing. Do you remember Kogon's testimoney that volunteers were used in the first two series of experiments? This testimony is on page 1,162 of the English transcript and on page 1,197 of the German transcript. If we base our assumptions on Ding's diary, what two series of experiments must these have been for which volunteers were used?

A. If we base our statements on Ding's diary we can only consider that these two series were, first of all, the preliminary series A which began on 5 January, and the first series of vaccine experiments with 145 persons regarding which the letter of 5 May 1942 that was previously read concerns itself. (*Mrugowsky 10, Mrugowsky Ex. 20.*) This series began on the next day, namely, on 6 January 1942. Any other

experiments took place at a later date. Thus, when Kogon says that two series of experiments were carried out with volunteers, it can only be these two series of experiments.

Q. The experiments with which the letter of 5 May concerned itself were carried out on volunteers?

A. Apparently they were.

Q. Can you remember the communication of 11 April 1943 to the effect that the Mateska serum could no longer be used for experiments?

A. No, I don't remember that and I consider it out of the question that I ever received any such communication. In all bacteriology, particularly in virology, there have been efforts for centuries to breed live germs which are no longer pathogenic (which do not infect human beings), in order to use these live germs for the manufacture of vaccine, namely vaccines with live attenuated strains, because these are a complete protection against the disease.

Q. In other words, you want to say that if you had received this communication, you would have seen to it that further experiments were carried out with this serum which was no longer so virulent?

A. I should not like to put it quite that way, but I should certainly have contacted the person whose institute had developed this strain, that was the Robert Koch Institute, Professor Gildemeister. However, I never spoke to him about this matter, and I should like to believe that he found nothing out about this matter because Gildemeister was one of our best virus researchers and was very familiar with the value such a really unique occurrence would have had.

Q. Did you see reports on the C and D series of experiments concerning the discovery of a safe method of infection, which were said to have taken place on the 11th and 13th of April?

A. No, I only found out about them here while looking through this document and I also saw that Ding does not assert that he sent a report on this to Berlin.

Q. On what further typhus experiment series did you then see reports?

A. In the diary of Block 46, Document NO–265, Ding says that only in the case of a few experimental series did he send reports to Berlin, namely the new experimental series, series I, II, VII, and VIII. I saw the report on series I, having received it from Grawitz, and as I said before, I rephrased it in another form, and it constitutes the document here submitted. Series II was carried out with the vaccine of Durand-Giroud of the Parisian Institute. That was the vaccine we intended to produce in our own institute. I really cannot recall ever having seen this report, but it is possible that I was informed of it by Grawitz, because I remember that Grawitz one day told me that he was con-

vinced of the effectiveness of this vaccine and had no further objection to my suggestion that we manufacture the vaccine according to that process. The immunization in the course of this series was carried on by Ding between 19 August and 4 September 1942. From 10 September to 9 October he was in Paris with Professor Giroud to learn his method, and when he returned, he infected persons and sent the charts to Berlin on 20 November. It was probably then, toward the end of 1942, that Grawitz spoke to me about this matter.

Q. Ding was ordered to report to Giroud in Paris in the autumn of 1942, although, as you have stated, it was already decided at the end of 1941 to manufacture your own vaccines according to Giroud's process. Now how do you explain this delay?

A. In the infections carried out in series I on 3 March 1942, Ding infected himself and fell seriously ill of typhus, despite his protective vaccination. Subsequently, he went on leave to recover, and when his health was somewhat restored, the business of going to Paris was discussed, which was only possible in the autumn.

Q. There were 4 specific fatalities in the control cases. Now you say that Grawitz probably discussed this matter with you. Did you do nothing about the fact that there had been fatalities?

A. When Grawitz spoke to me about this matter, could do nothing because the series of experiments had already been concluded. But I do remember pretty clearly the situation in his office there. I remember that I brought up the matter of these 4 fatalities and told him that that would probably be the last series that he instigated. He answered that Himmler had ordered these experiments and that I had specifically objected to being included in the matter, and consequently no longer had any right to interfere in his business.

Q. The report on the typhus experimental series VII was concluded on 7 September 1943, and when finished a report was sent to Berlin on 9 September, according to Ding's diary. Did you see this report?

A. No.

Q. But according to Ding's work report, on the third of September, at a time when this series was completed but the report not yet written, you were in Buchenwald, according to this diary, visiting Ding. Did you talk about this matter then?

A. This entry is apparently correct. This was the period in which Block 50 was being prepared for the production of the vaccines. Ding writes in one of his documents that on the 10th of August this block was occupied and that work in producing the vaccine was begun. Kogon corroborated that in his testimony. Then 3 weeks after the beginning of this work, I went to Buchenwald to look over the laboratory and to see how his work was getting along. Kogon also described at some length how I inspected the institute, how I went into every

room. It was a rather extensive inspection. I asked many questions, had many conversations with the inmates there; he further testified that I was with Ding in his room for only a very brief period of time, and that is also correct. In other words, at that time he did not submit any material to me.

Q. Did you know anything else about this experimental series VII?

A. This series was carried out with a vaccine similar to the Behring vaccine, manufactured by a different firm. I knew nothing of this experimental series.

Q. I submit to the Tribunal as the next document, Mrugowsky 12, and I put it in evidence as Mrugowsky Exhibit 25. This is an affidavit by Dr. Karl Ludwig Wolters of Hamburg, from the Asid Works. After the customary introduction the statement reads:

"The above person requested the notary to draw up an affidavit and declared and deposed the following under oath and after having been duly informed of the meaning of an affidavit:

"1. The production of typhus vaccines based on the egg culture process began as early as 1941. Later on, the prescribed process according to Gildemeister and Haagen was introduced.

"2. Experiments on animals for the purpose of testing the manufactured vaccines were taken up simultaneously with the beginning of the production and were carried out continuously. The results of the animal experiments were not always clear. The vaccine tolerance was tested by protective vaccinations of employees; all employees connected with the typhus department or who came in contact with employees working therein, were vaccinated. In addition, all other employees had the privilege of receiving protective vaccination against typhus on demand and without charge. In the course of time, about one thousand employees were vaccinated against typhus."

To figures 3 and 4 I simply draw the attention of the Tribunal. Figure 5 reads:

"5. As far as I know, there was no correspondence between the firm of Asid Serum Institute G.m.b.H., Dessau, on the one hand, and the former Hygiene Institute of the Waffen SS, or the Institute for Typhus and Virus Research at Buchenwald, or its chief, Dr. Ding, or the Grawitz Agency, on the other hand.

"6. I made the acquaintance of Dr. Ding during a trip from Berlin to Krakow.

"7. I could not say how the test of the typhus vaccines in question materialized. In any case, as far as I know, I never discussed that question with Professor Mrugowsky, nor did I forward the vaccines to him for testing. It is quite possible that the vaccines reached Dr. Ding through Professor Gildemeister of the Robert Koch Insti-

tute in Berlin, who received them in his capacity as expert consultant of the Ministry of the Interior for the fight against epidemics.

"8. During a discussion with Professor Mrugowsky in the Hygiene Institute of the Waffen SS in Berlin, I only talked about general questions of hygiene concerning the occupied eastern territories, and I asked for assistance in the work of developing the serum institute at Kiev. At the same time, the organization of delousing by the Asid Serum Institute Koenigsberg was discussed. There also may have been discussion of general questions in connection with active immunization, especially against scarlet fever, diphtheria, and tetanus."

Then there is the usual conclusion and signature.

It can be seen from this that the vaccines for this series did not go via you from Ding; is that true?

A. Yes.

Q. According to Dr. Ding's work report, which is Document NO–571, Prosecution Exhibit 285, you were present with him on the 3d of September in Buchenwald. Did you visit Block 46?

A. Yes. Ding invited me to take a look at Block 46. I went over there with him; and I remember quite well that I was led to the lower floor of a stone building, where there were a number of room-like partitions.

In the first room there were a few men playing cards; Ding told me that these were typhus convalescents who had survived typhus and who were to be released. I talked to them and found that their state of health was good and that the usual after-effects of typhus were no longer in existence. There were about five or six persons.

In the second room I saw about three patients lying in bed. I examined them and spoke to them. They had been transferred to Buchenwald a short time before from other camps. I think one of them was ill even when he arrived and the others had fallen ill shortly after their arrival in Buchenwald, and then were transferred to the typhus station. We are here concerned with people who fell ill spontaneously. According to Ding's entry, there was no series of experiments carried on at that time.

Q. When visiting Buchenwald, didn't you talk to Dr. Ding about his various series of typhus experiments?

A. No. At that time he had concluded the experimental series number VII with Asid vaccines as I can see from this document. This was a series which had a number of fatalities as its result. It is in line with Ding's character that he did not speak to me about such a series of experiments, since he knew what my basic attitude towards this question was.

Q. Didn't you discuss the typhus experiments with Ding on the occasion of your visit?

A. No. We didn't discuss that matter. Our conversation merely dealt with the work carried on in Block 50 for the production of vaccine, which was really the purpose of my visit. I think we discussed a number of other hygienic questions concerning the vicinity of Buchenwald. I knew that there was a lack of water there from my previous activity; and I am sure that this was a subject which was discussed. I spent the evening with Ding in his flat where I met Dr. Hoven, the camp physician of Buchenwald, and his wife. Mrs. Ding was there, too. It is a matter of course that we didn't discuss any technical questions in that circle. We certainly did not speak about any experiments on human beings.

In this connection I may perhaps say that this was the only time that I saw Hoven, who was allegedly Ding's representative. This was ten days before Hoven had to end his activity as a camp physician in Buchenwald.

Q. Were you of the opinion that the typhus experimental series had been concluded?

A. Yes. I held that opinion, since it becomes evident from the documents here that the experimental series of that time had not led to any disease. The reason was that the strain coming from the Robert Koch Institute was not pathogenic. Ding did not say that he sent any reports to Berlin about it; and I, therefore, did not know anything about the way he worked in Buchenwald as far as it did not concern Block 50. I was of the opinion that after the second series of experiments, which was concluded at the end of 1942, no further experiments were planned.

Q. Well, if you believed that the typhus experiments had been concluded, the main activity of Dr. Ding would also have had to come to a conclusion?

A. No. That is not the case. Seen from my point of view, he was a bacteriologist; and I was anxiously awaiting the end of this special mission by Grawitz when Ding would again be fully at my disposal. At that time, in 1943, he had to carry out the preparations for vaccine production at Buchenwald. Therefore, the building work had to be supervised. Block 50 was a bacteriological institute furnished in a very modern style with a number of special pieces of equipment. Animals had to be obtained and accommodation made ready for them. There was not only one kind of animal but four different kinds. It was necessary to obtain fodder for them. Then a number of other organizational activities were necessary, which made Ding's stay in Buchenwald absolutely necessary.

Q. Ding maintains that he sent a report about the series number VIII of the typhus experiments. Did you see that in Berlin? It was to have been sent on the 13th of June 1944.

A. Well, I heard about this series of experiments only by looking at the document here. I hadn't seen or heard of it before.

Q. In the last entry of his diary, Ding says: "By order of the Chief Hygienist of the Waffen SS, dated the 12th of August 1944, it was to be established whether the course of a typhus illness can be mitigated by a typhus vaccine through intravenous or intramuscular injections." Did you ever issue such an order?

A. No. I repeatedly pointed out that on the basis of the entire organizational set-up of the Medical Institute of the Waffen SS, neither as the Chief of the Hygiene Institute of the Waffen SS, nor as the consulting hygienist of the Reich Physician SS and Police, could I order any experiments to be carried out on inmates because I had just as little influence on the medical service of the concentration camp as any other member of the Waffen SS. The matter with which we dealt was completely different. In the Crimea, in one of the hospitals in the East, I saw that the internist there was treating typhoid illnesses with injections of dead typhoid vaccines; and this procedure resulted in fever in many of the cases. At that time I remembered that literature dating back to the last World War, when a number of papers were written on the very same subject, showed that there were similar methods in the treatment of typhus and typhoid entailing the injection of vaccines.

During the course of these years when I had to deal closely with typhus, I had developed a very definite opinion about the origin and development of typhus. I was, therefore, of the opinion that in the case of this illness, which clinically is very close to para-typhus, it would be quite feasible to make an experiment with that kind of treatment. The clinical symptoms of typhus and typhoid and stomach typhus are very similar. If a cure can be achieved with one method, it is to be assumed that all other types of illnesses of that nature could also be treated with success using that method. After my return, therefore, I established contact with a number of internes belonging to the hospitals which I knew, and wrote them that I had gathered like experiences. I quoted passages from literature on that subject, and I said that our new experiences were the same as our old. I made the suggestion that the same method be used in the case of typhus by injecting with a protective typhus vaccine. One might consider that at that time we had just as little means of combating the severe disease as we have today. We, therefore, were medically justified in searching for new methods of treatment.

Q. Were these to be a series of experiments in the sense in which Ding carried them out?

A. That is completely out of the question. There was no reason to do that at all. In order to perform such an experiment, one could

make tests on a typhus inflicted person using this method, and the worst that could happen would be that it would not help; but it certainly would not be necessary to make a certain series of experiments, and I certainly never gave any such order.

Q. Did you write to Ding in that sense?

A. At that time I informed my assistants about this therapy in the case of contagious diseases, and I am sure that it was a matter of course that, as epidemic specialists, we had to be informed about such a possibility, and in this manner we also received knowledge of it.

Q. You were saying that there would not have been justification for the experimental theory?

A. No.

Q. Well, did you or did you not order such a series of experiments from Dr. Ding?

A. Never, at no time.

Q. Are you of the opinion that Ding started these experiments on his own initiative?

A. That is possible. At any rate he did not receive orders from me, and I don't know where else he could have received an order.

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EXTRACTS FROM THE TESTIMONY OF DEFENSE WITNESS DR. EUGEN HAAGEN*

DIRECT EXAMINATION

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DR. TIPP: Now, Professor, we are coming to the last and perhaps the most decisive count of the indictment—namely, the typhus experiments, as the prosecution calls them. Professor Schroeder and Professor Becker-Freyseng are charged with responsibility for such typhus experiments. There are two groups of them, according to the prosecution. On the one hand, those performed in Buchenwald concentration camp by Dr. Ding-Schuler and to a lesser extent by the defendant Dr. Hoven. The second group is alleged typhus experiments that you carried out in the Natzweiler concentration camp. Before we turn to the individual experiments, Professor, please tell the Tribunal what the hazards of typhus were during the war, especially in the years 1943, 1944, and 1945 when this problem became acute? Describe it only to the extent necessary in order to make your work understandable.

WITNESS HAAGEN: I shall try to be brief, but in order to understand this whole problem, one must be given some general information. Typhus is a very serious infectious disease which, in international

*Complete testimony is recorded in mimeographed transcript, 17, 18, 19, 20 June 1947, pp. 9409–9713.

medical circles, is included among the diseases which are of general danger, and it is consequently subject to international control. In cases of such hazardous and dangerous diseases, every state felt the moral obligation to do everything to prevent the outbreak of an epidemic because it is very difficult to combat and to eliminate the epidemic once it has broken out. This point of view was embraced, of course, not only by the government officials, but also by the responsible and interested scientists and physicians; because we all, of course, knew how prodigious the danger of typhus is, not only for the waging of the war but also for the civilian population of the entire world. Typhus is not only a war epidemic, but it has taken root in the country. It is also a peacetime epidemic which is enormously difficult to combat.

PRESIDING JUDGE BEALS: Counsel, the Tribunal is quite aware that typhus is a very dangerous disease, that it is a great menace to humans, and that it was a menace to Germany during the last war, a great danger. I don't think it is necessary to elaborate that again. We have heard it from several witnesses. It's not denied.

DR. TIPP: Witness, you heard the Tribunal's wish. In the opinion of the Tribunal, the typhus danger for Germany has already been sufficiently proved. Please go on to the subject itself now. Perhaps you could speak of the usual preventive measures which are used against typhus, particularly vaccines.

WITNESS HAAGEN: There are, in general, two procedures to prevent typhus. One is what I might call the mechanical procedure, and the other the biological procedure. In the mechanical procedure we are concerned with combating the lice—I shall not go into that—but in the biological procedure we are interested in a protective vaccine. There are various vaccines available. Now, to get down to the crux of the matter, I must say that the typhus vaccines which are made from dead typhus virus do not provide absolute protection against the disease. They may lead to a milder form of the disease, but the infection itself is not prevented. Dead typhus vaccine, in other words, has no absolute anti-infectious effect, which, however, is the main point of any vaccine.

We developed a live vaccine, not on the basis of our own experiences and research, but we made use of the experiences of others. I should like to mention primarily the work of the French typhus research scientists, Blanc, Baltasar, and assistants Legrer and Lecolle. When vaccinating, a vaccine must be used which gives anti-infectious protection, and in general, in the case of virus diseases, successful vaccination is also achieved only with live virus. Let me mention the examples of smallpox, influenza, and yellow fever. In all these cases the vaccines are made from a live virus, but it is true that this virus is mutated, that is, it is no longer pathogenic to human beings. Its

pathogenic characteristics have been suppressed and have disappeared, but the virus retains its anti-infectious efficacy. This change is accomplished in two ways, either by passing the virus through an animal—this is frequently done—and sometimes effects mutation in the virus and sometimes weakens the virus. I need not go into that; it would take up too much time.

Q. If I understand you correctly, Witness, your aim as a scientist was to develop a vaccine from live virus; in other words from a nonpathogenic virus which could not cause the disease, but which, nevertheless, had the antigenic effect, namely the effect of protecting the vaccinated person against contracting the disease later by infection. Is that so?

A. Yes. That is correct.

Q. Now, Witness, nobody is reproaching you for having produced vaccines, but it is said that you tested the effectiveness of your vaccines in a concentration camp. The prosecution called these virulent and you say they were nonpathogenic. At any rate, that is the way I understood the reproach of the prosecution; but first before you go into this, Witness, will you please tell the Court how it happened that you came into contact with the concentration camp Natzweiler in this matter?

A. The development of typhus throughout the war was such that typhus no longer became purely a war epidemic, but because of the many refugee camps, PW transports, and military transports, typhus was brought into Germany itself. In the overcrowded camps, especially with lack of sanitary installations, there was considerable danger from typhus, particularly where people assembled who came from the East. I have only to say that in the Auschwitz camp, for example (but also in many other prisoner camps in the east), there had already been extensive epidemics. Typhus pressed further and further into Germany. Every closed community such as a camp is, in itself, a great source of danger of typhus, not only the danger of an epidemic within the camp, but also an epidemic that spreads to the surrounding civilian population. Most of the concentration camp inmates worked outside the camp in factories and they came into contact with the civilian population, so you can easily see the danger of contagion. Now, in brief, the camp commandant and the camp doctor in the course of the spring of 1943 asked me whether they could have my assistance in combating this danger.

Q. Witness, a preparatory question first. Did you have any connection with the SS, with the concentration camp, as such?

A. I had no connection with the SS or with the concentration camps, or with any office in charge of them.

Q. Why did the camp commandant and the camp physician of the Natzweiler concentration camp turn specifically to you?

A. As director of the Hygiene Institute I had a rather large sphere of activity in Alsace, and, of course, it was known in the concentration camps, too, that my offices were in Strasbourg. For this reason the camp turned to me for help in many matters, including the obtaining of vaccines and help in the disinfection of the camp, and so forth, matters which perhaps we shall deal with later.

Q. You say then that the camp turned to you because you were the hygienist in the Alsatian district around Strasbourg?

A. That is correct.

Q. You said also that the camp commandant or doctor asked for your assistance?

A. Yes, that was an obvious thing for him to do, because I was right there in Strasbourg.

Q. You said further that it was roughly in the spring of 1943 that these requests for assistance were made to you; was there an epidemic in the camp already at that time, or why did they think they needed your help?

A. At that time there was no epidemic in the camp, but the general epidemiological situation was such that an outbreak of typhus was expected at any moment, especially since transports were continually coming from the East. These transports were infected with lice and contained people who were already infected with typhus, and other camps in the neighborhood had already had their first cases of typhus.

Q. Professor, what means did you have available to help these camp physicians? Please limit yourself, first of all your vaccines?

A. I have already said that there are various vaccines available made from dead virus, and also those made from live and attenuated virus. It was very difficult to procure virus at that time. The superior officers simply could not make the effective vaccines available, and in order to carry out any plans, all sorts of decrees and orders existed in Germany for the planning of systematic vaccination should the danger of typhus arise.

Q. Now, Witness, you have described your work in the field of vaccine production, namely, that of producing a live pathogenic virus; did you begin this developing and working on your own initiative, or did some other agency refer the problem to you?

A. Live typhus virus was being manufactured in foreign countries at that time in great quantities, particularly in France where they had had a great deal of experience with such live virus. I have already mentioned Blanc, Baltasar, Lecolle, and Legrer. During the war, protective vaccines were also made with such live virus in North Africa. There had already been millions of such vaccinations and, of course, this permitted experience to be gathered. The fact is that the French, who saw this great danger, also saw the necessity of such large-scale vaccines, and they had also had a few fatalities. As I

said, we had to use a virus strain for these vaccinations which, it is true, was alive and still pathogenic to animals. In other words, a virulent virus, the pathogenic effect of which on human beings was suppressed to a large extent; and that is the essence of all live vaccine manufacture, and it must occupy the central position in our considerations here. You bring about such mutation only by passing the virus through animals. Every specialist knows that when the virus is passed through animals it is attenuated there more than by being cultured or bred, for instance, in chicken yolks or by being preserved in a vacuum, or at very low temperatures and only somewhat attenuated in strain.

Q. Witness, you still haven't answered my question fully, that is, whether you carried out this work on your own initiative or on the basis of an order, directive, or assignment which came to you from elsewhere?

A. In developing this live typhus vaccine—

PRESIDING JUDGE BEALS: Witness, you can answer that question in a very few words. Just answer the question propounded to you by your counsel.

A. This was a research assignment, as I just said, there was no military or other directive.

DR. TIPP: Witness, you have already described this morning how research assignments were distributed, and you told us that, in general, the assignment was made on the application of a scientist for such an assignment; now what was the case here, did you work on this problem first and then receive an assignment or was there already an assignment in existence and did you then begin to work?

A. All this work was done entirely on my own initiative. I also saw to it that I got the necessary research assignment so that I could have the necessary funds for the work from the Reich Research Council, and then from the Medical Chief of the Luftwaffe. That is where I obtained my assignment.

MR. HARDY: Your Honor, before we adjourn may I inquire from counsel how long the examination will continue, and how long other defense counsels will take in their examination of the witness Haagen?

DR. TIPP: I have already said I will need roughly a day and a half. We have already eliminated some of the questions; I don't know if I can finish this afternoon, but I shall not need so much time tomorrow morning. I cannot tell you how much time my other colleagues will need.

MR. HARDY: Do I understand Dr. Tipp is going to take the rest of the day, in spite of the fact that we sit until 5 o'clock?

DR. TIPP: I shall use all of today. Yes.

PRESIDING JUDGE BEALS: Does any other defense counsel desire to examine this witness while he is on the stand?

DR. TIPP: Dr. Nelte just tells me that he will need a quarter of an hour, and my colleague Krauss for Rostock, fifteen minutes.

DR. FRITZ: Mr. President, I cannot say definitely now how long I shall need because I do not know how many of the questions I intend to put to the witness will be made unnecessary by Dr. Tipp's examination.

PRESIDING JUDGE BEALS: The Tribunal is only asking for an estimate.

DR. FRITZ: One hour.

PRESIDING JUDGE BEALS: Counsel, during the noon recess will you instruct your witness to answer your questions directly and simply without expostulating on matters about which, while scientific and important, the Tribunal has already been advised. Kindly instruct him and explain to him how to answer these questions.

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DR. TIPP: Professor, before the recess you said that you began your work in the field of typhus on your own initiative, and that in the course of this work you obtained research assignments from the Medical Inspector of the Luftwaffe as well as the Reich Research Counsel; now I ask you, in your applications made before the various assignments were issued, were any details given about the work which you planned to carry out or the work which you had already carried out?

WITNESS HAAGEN: No details were given, of course, merely the problem as such was dealt with.

Q. You have already described to the Tribunal your work on this problem; it was to find a vaccine produced from live virus, a virus no longer pathogenic to human beings which, however, contained the qualities of the virus.

A. Yes. That is true. Our work was limited to the development of a live vaccine, and this work was based on the great experiences of foreign scientists, especially the French scientist Blanc; the technical side was always carried out in animal experiments.

Q. Now, Witness, did you succeed in finding a vaccine of the type described?

A. Yes. We did succeed in developing such a vaccine from a so-called murine typhus virus strain, that is, from rat typhus. The weakening was brought about through animal experiments, through cultivation in chicken eggs, and thirdly through a conservation process.

Q. Was this vaccine then tested for its effectiveness and if so, how?

A. Yes. The vaccine was tested for its effectiveness. First, of course, by animal experiments for its immunizing qualities. After this quality had been proved, the first vaccinations were undertaken in order to test the effectiveness and the tolerance on human beings. This was done on volunteers.

Q. Where did you get these volunteers, Professor?

A. First of all I served myself, then the members of my institute and a number of students from the university.

Q. Now, will you please tell us the purpose of these experiments?

A. When one has produced a new vaccine one must test not only its effectiveness, but also its tolerability. This can only be done on human beings; animal experiments are not sufficient. At a certain stage it always becomes necessary to test it on human beings.

Q. In these vaccinations on members of the institute and students, you tested the tolerability of the vaccine; the immunizing effect of the vaccine, if I understood you correctly, could not be proved by these experiments?

A. Yes. The immunizing effect can also be determined. One merely needs to make the Weil-Felix reaction, which has been mentioned in this trial. That is, to ascertain whether the blood serum already contains protective bodies against the typhus germ. This test (I mention this because mistakes have been made here) is used not only to diagnose the disease, but also, since it is a definite immunity reaction, to find the protective bodies after vaccination.

Q. We will come back to that later, Witness. Now when did you achieve your aim, when did you have a vaccine of the type described, and when did you develop it far enough to be used?

A. In the spring of 1943.

Q. And when was this vaccine first actually used on a large scale, or when was it first used at all?

A. The first vaccinations were carried out in May 1943 in the Schirmeck internment camp, which belonged to the Natzweiler concentration camp. The vaccinations were performed on persons in special danger.

Q. This morning, Witness, you mentioned the request of a camp doctor of the Natzweiler concentration camp, and Schirmeck was no doubt under him; may I ask whether these Schirmeck vaccinations go back to the request of the camp physician?

A. I do not quite understand your question.

Q. Please tell me whether the vaccinations performed in Schirmeck originated with the request of the camp physician?

A. Yes. Schirmeck and Natzweiler belong together. My vaccinations there were in connection with all the work of the camp.

Q. Then you used this vaccine for the first time in May 1943 in Schirmeck. How many persons did you vaccinate?

A. Twenty-eight persons were vaccinated altogether.

Q. Did you have any influence on the selection of these persons; that is, did you select these persons, or who selected them?

A. I did not have any direct influence on the selection of these persons, only to the extent that I told the camp administrator and the camp doctor that we could only vaccinate people who were in a more

or less good state of health, since if this were not the case it would not correspond to our German vaccination laws. To that extent I did have some influence.

The selection was made according to the point of view that persons were selected who were in special danger of typhus, persons who were in the so-called "east block" of the camp. New transports were always coming from the East, lice infected, for the most part, so that one could count on a considerable typhus danger. In this part of the camp the danger was greater than in those parts of the camp, housing Germans and Alsatians who did not come from the East.

Q. You said, Witness, the persons were selected from the group of prisoners in special danger of contracting typhus. You just mentioned the east block. Can you tell us what nationality these persons were?

A. As far as I can remember they were of various nationalities. There were quite a number of them who spoke German and one could converse with them easily.

Q. Now, Witness, I should like to ask you to describe how these vaccinations were carried out. Perhaps a preliminary question first. Why did you vaccinate only 28 persons? Why did you not vaccinate all the inmates of the camp there?

A. At first I could only produce the vaccine in very small quantities. My laboratory facilities were very limited. If I had wanted to vaccinate a whole camp I would have had to have a production workshop. That is why we only vaccinated a small number of people.

Q. Now, Professor, please describe how the vaccinations were performed.

A. Vaccinations were performed on 28 persons altogether, in several groups. The first vaccination was of eight persons. They were given one injection of 0.5 cc. of the vaccine into the breast muscle in the customary manner. The second group consisted of 20 persons, divided into two subgroups of ten each. The first group—let's call this group A—was also given 0.5 cc. of the vaccine intramuscularly. Subgroup B, the last ten persons, were first given a vaccination of 0.5 cc. of a dead typhus vaccine produced in the Robert Koch Institute. Then, eight days later, there was a second vaccination with a live vaccine, again 0.5 cc. intramuscularly. I should like to say that the first vaccination with the dead vaccine, which I have just mentioned, was performed for two reasons: First of all, in order to be able to see whether this preliminary examination produced more protective bodies; and, in the second place, to see whether this preliminary examination with dead vaccine might reduce the reactions of the living vaccine.

At the same time, I carried out protective vaccinations on persons outside the camp, on volunteers. They were again performed in such

a way that there were three injections this time: the first, 0.25 cc., the second, 0.25 cc., and the third injection 0.5 cc. of the live vaccine.

Q. The Court will be especially interested, Witness, in the reactions of the persons after this vaccination. Can you tell us that?

A. In the first group of eight persons who were given 0.5 cc. of the living vaccine only once, three had a reaction consisting of a short fever of over 39 degrees. The rest of the persons, however, had no reaction.

In the second group, among the ten persons in group A, there were no noticeable reactions. In the other group there were very negligible symptoms, in some cases only a headache and depression. Typical symptoms of typhus, brain symptoms or vessel symptoms, and other symptoms, did not appear in any case.

The same was true of the third group. Here again there was no reaction. I must say in this connection that I used a vaccine produced from dead typhus virus. I must point that out because later, in Natzweiler, I used the classic epidemic or louse typhus virus vaccine.

Q. Professor, after the vaccination did you watch the well-being of the persons vaccinated?

A. Yes, of course. After the vaccination I was frequently in the camp. I looked at the persons who had been vaccinated and was shown their temperature charts. After four weeks a final blood sample was taken to perform the Weil-Felix reaction in order to see what degree of immunity they had developed.

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Q. * * * Were there any deaths in the course of these vaccinations at Schirmeck?

A. No. There were no deaths from the vaccinations at Schirmeck.

Q. Witness, your testimony is in contradiction to the testimony of a prosecution witness whom we heard here. This was George Hirtz, who testified here on the 8th of January. His testimony is on page 1310 of the German and page 1293 of the English record. Hirtz said that at Schirmeck you injected 20 to 25 persons and during the following days these people developed a high temperature. The temperature is said to have started after 36 to 48 hours, and two of these people died. The witness also said you had vaccinated him, the head of the camp, and the Kapo in the sick bay. Will you explain the differences between your testimony and the testimony of Hirtz?

A. It is true that these three people, the camp head, the Kapo [inmate trusty], and the nurse, that was Hirtz, were vaccinated with the customary vaccine on the basis of an order to the effect that if there was any danger of typhus, the camp personnel had to be vaccinated regularly against this disease. Now, the personnel was in

much less danger than the inmates themselves; so in order to help the camp doctor, I supplied the vaccine and vaccinated these three persons, but I reserved the live vaccine for the persons who were in real danger. Those were the reasons why these seeming distinctions were made.

Q. The witness Hirtz also testified that he did not medically examine these 20 people before they were vaccinated. Is that correct?

A. When the prisoners came to the camp they were carefully examined by the camp doctor. This was necessary in the interest of preventing disease in the camp. Therefore, here I merely had to observe whether they were free from external symptoms of disease and to determine how strong they were.

Q. Then if I understand you correctly, you say that the medical examination was performed by the camp doctor, who made them available to you for vaccination?

A. Yes, the camp doctor and the head of the camp, together.

Q. Now, Professor, is the statement of the witness Hirtz correct to the effect that after 36 to 48 hours these persons had a temperature of up to 40° Centigrade, 104° Fahrenheit?

A. I have already said that aside from the first group there was no special reaction. Hirtz himself did not know the first group, he says so himself. In the second group, I have just testified that there were no temperature reactions or any other reaction.

Q. But you said, Witness—oh, that was the first group.

A. Yes. And even here the reactions were quite the usual ones which occur in other vaccinations, too.

Q. But Hirtz also says that after the temperature—seven to eight days, the persons developed some kind of disturbance and they had some impediment in their speech and in three or four cases they stuttered. Do you know anything about that?

A. When I visited these persons I did not observe any such symptoms. None of them complained, and I am sure that if any one found that he had developed such symptoms he would immediately have gone to the doctor. Everyone was interested in getting rid of these symptoms. I did not observe any disturbances or stuttering. If Hirtz had seen them at the time, I am convinced he would have reported them to me. He was the nurse for these persons and was responsible for them; I cannot imagine that he would have served the interests of these prisoners by keeping these things secret.

Q. You say that you did not observe such symptoms nor did Hirtz report them to you. Now, Witness, Hirtz also said that after two days two of these experimental subjects, as he calls them, or vaccinated persons, as you call them, died. Did you observe this, Witness?

A. I have already said that in the smaller experimental group no one died, because I am sure I would have noticed it when I visited these persons who had been vaccinated. I would certainly have ordered an autopsy in the case of such deaths to determine when the person died. Not only would I have ordered or carried out this autopsy, but the camp administration would have ordered it. People might think that these persons perhaps died of typhus. I must say that after a two-day incubation period—that was the period between inoculation and death—no one ever died of typhus. The shortest time for typhus deaths, that is the incubation period plus length of disease, is ten days to fourteen days. And these early deaths are supposed to be cases with a high pathogenic virus originating directly from human beings. For this reason alone it is quite impossible.

Q. Witness, you said that in such cases you would doubtless have had an autopsy performed. You said you heard nothing about the deaths, and that, therefore, there was no autopsy; is that right?

A. Yes. That is correct.

Q. I should like to remind the Tribunal of the testimony of Hirtz. (*Tr. p. 1298.*) He said that he immediately wrapped the bodies in paper and had them burned in the crematorium at Natzweiler. Not even the prosecution witness was able to say, or perhaps did not want to say, how Professor Haagen reacted to these deaths. Now one more question about this witness Hirtz. Here on the witness stand Hirtz was asked, "Now Witness, you realized that these experiments performed on the 20 to 25 persons were experiments for the determination of typhus in connection with typhus disease?" A. "Yes, I had not the slightest doubt about it. I have fifteen years of practice behind me." I do not know, Witness, what this testimony means. Perhaps I am not enough of a specialist to judge, but I may assume that you can explain what the content of these statements is.

A. I can only say that I cannot understand Mr. Hirtz' statement at all. I have no idea what experiments to determine typhus in connection with this disease are supposed to be. First of all, there were no experiments to determine typhus since there was no typhus. And I don't know any method for performing experiments on human beings to determine typhus. If by experiments, one means the removal of blood in the Weil-Felix reaction, that is something else, but that is not what he is talking about here. As reason for his expert knowledge the witness states that he has been a pharmacist for 15 years. That he has such a long practice behind him and so considers himself an expert in the field of contagious diseases. I can't quite understand that either. But I think one can expect that from a pharmacist—after all, pharmacists do sell vaccines for public diseases in pharmacies—one would really expect him to know what vaccine re-

actions are and what a real disease is. And then in the first group where a reaction did appear, he didn't know that group at all.

Q. You have already said, Witness, something about Mr. Hirtz' testimony that the prisoner Atloff told him about what Mr. Hirtz described was the second experiment. It seems to me that supports your statement that Mr. Hirtz knew nothing about the first group, that is the eight persons. Can you tell us anything else, Professor, to explain the contradiction between your testimony and that of Mr. Hirtz?

A. Hirtz speaks only of one injection, not of two. The vaccinated persons whom he took care of all had two injections at intervals of several days. If he had really been interested in the vaccination, he must have known that two injections were performed. That is one point. Then he says that the needles were not changed. He seems to have overlooked something there again; that for every injection a new injection needle was used which was brought from Strasbourg already sterilized, and that the technical assistant changed them. Anybody who knows anything about scientific work knows that in such important work one does not use the same needle for several persons, quite aside from the fact that this would not be in accordance with one of the most elementary demands of asepsis. Here again he probably didn't observe very carefully.

Q. Now, Professor, we are interested in the question of whether in the camp of Schirmeck, you wanted to produce typhus through artificial injection of pathogenic virus. Did you perform such experiments at Schirmeck?

A. No. No such experiments were performed. I don't know what the purpose would have been.

Q. Then if I may sum up, Professor, you were introducing a vaccine into practice after it had already been tested in animal experiments, in self-experiments, and in experiments on volunteers. But experiments such as I have just described were not performed at Schirmeck, is that correct?

A. Yes. That is correct. We were merely introducing a vaccine which was already being used on a large scale in other countries. Perhaps I may add that at first I intended to perform further vaccinations in the Schirmeck camp in order to protect this camp as far as possible, but that in the course of the next month, I realized that the Natzweiler camp was entirely different in its whole structure and that there was much greater danger of typhus in this camp. Therefore, I shifted my interest from Schirmeck to Natzweiler.

Q. Now before we go on to the work at Natzweiler, Witness, I should like to clarify the following point with you. Mr. Hirtz testified here that the prisoners used for vaccination were not volunteers; but you say, Professor, that your point of view is that experimental

subjects should be volunteers. Can you please clearly answer this question and explain the points of view which are important in your opinion in vaccinations particularly?

A. The prisoners whom we vaccinated were not volunteers. I would like to say the following on that point: As I have already said, I share with most scientists the point of view that the prerequisite for any experiment is the self-experiment. This was not merely a theory in my case. Everyone who knows my work or saw my work knows that I performed a number of self-experiments and contracted a number of infections. I need not go into that now, but of course I tested all vaccines on myself. If we dispensed with the element of voluntariness in this present case, I must state that according to our rules and laws in Germany, vaccinations are ordered wherever there is danger of an epidemic. This situation existed in Schirmeck and Natzweiler. There was a decree for this camp from the SS–WVHA, and decrees were sent out by the chief doctor of concentration camps. Our vaccinations were performed within these legal regulations. In the records of trial, I find again and again the point of view that I had taken poor, helpless prisoners and treated them with murderous germs. But if one knows my work well, one can see that, on the contrary, I was combating these diseases. There can be no question of any criminal experiments here. I want to object very definitely to being called a criminal when I was merely fighting diseases.

Q. Well, Professor, you say that in this case you dispensed with volunteers because it was not an experiment, but rather a vaccination, and because it is your point of view that for vaccinations it is legally permissible to make them compulsory—that you were merely carrying out a legal measure under international law?

A. Yes. This was a vaccination with a vaccine which was already being used elsewhere in the world within the framework of general vaccinations carried out on the basis of the existing regulations.

* * * * * * *

Q. When did you begin your work in Natzweiler proper?

A. It was my intention to begin vaccination in the Natzweiler camp in the summer of 1943, but then unexpected difficulties arose which I must go into—I think they are of significance for this trial. Professor Hirt, whose name I believe has been mentioned here repeatedly, the director of the Anatomical Institute in Strasbourg, was a member of the SS and a research worker of the Ahnenerbe. As an SS officer he had discovered through the camp that I wanted to perform vaccinations there. He then intervened because he thought that if persons outside the SS or the WVHA wanted to work in the camp in some form or other we had to have approval for this, quite aside from the fact that I had been asked to perform these vaccinations, etc.

Professor Hirt told the camp doctor and myself that he was ready to get this approval and asked me to make a request to this effect to the Institute for Military Scientific Research. I had no connection with the SS or any suborganization of the SS, nor did I know the inner organization of the SS. The application was made in the summer of 1943. I cannot remember the wording of the application exactly, but Hirt sent it on to the agency in question. I only know that the application said that I had asked for permission to vaccinate a certain number of camp inmates. One had to make a limitation because I could only produce the vaccine in small quantities since the technical conditions did not yet exist at the institute for large-scale production. In this letter to Hirt, I pointed out that there was no danger in vaccination with the new vaccine, but that we had to expect a more or less strong reaction, especially a temperature reaction in accordance with the variances in the individuals. I also pointed out that the people to be vaccinated had to be in good physical condition, so that they should be in more or less the same physical condition as our soldiers. I said this in order to conform with the general vaccination regulations. After some time I received an announcement from the Institute for Military Scientific Research to the effect that my request would be granted.

Q. Professor, will you please look at Document NO–120, which is Prosecution Exhibit 297. It is a letter from the Reich Leader SS, Personal Staff, Institute for Military Scientific Research, dated 30 September 1943. It is signed by Sievers, and it is addressed to the Director of the Institute for Hygiene of the Reich University, Strasbourg. Herr Sievers writes:

"I confirm receipt of your request of 16 August 1943. I shall be glad to help you and have accordingly contacted the proper source to have the desired personnel placed at your disposal."

Is this the letter you meant, Witness, when you said that you were given approval in principle to carry out these vaccinations?

A. Yes, this letter created the basic prerequisities for performing the vaccinations. If we disregard the fact that for epidemiological reasons the vaccinations were justified and even necessary, this letter, I believe, gives us a justification to perform them.

Q. Now, were you able to carry out the vaccinations?

A. No. It wasn't as simple as that unfortunately—I say "unfortunately" because precious time was lost and I was interested in protecting the camp as soon as possible, at least insofar as there was no longer any danger of typhus. I informed the camp doctor of the contents of this letter and asked to be allowed to commence the vaccinations. A considerable time passed, however, and not until November did I receive notice that we could begin with the vaccinations.

The whole affair had not been helped by Hirt's intervention, therefore, but had even been delayed. Then when I received the first hundred prisoners, I looked at them and found that they were in no condition at all to be vaccinated. They were in very poor shape. I must say that they were prisoners who came from Auschwitz on the transport; I think eighteen of the people had already died. One really had no right to perform a vaccination on such a group. I did not do so and refused for medical reasons.

Q. And what did you do then, Witness?

A. I informed Hirt of this. I wrote to him frankly that these people were out of the question for vaccination and I asked for men in good physical condition.

Q. Professor, will you please look at Document NO–121, Prosecution Exhibit 293? It is a letter from you to Professor Hirt, dated 15 [13] November 1943. Did you mean this letter when you say that you wrote to Hirt? I shall read briefly:

"On the 13th of November 1943, an inspection was made of the prisoners who were furnished to me by the SS–WVHA, in order to determine their suitability for the tests which have been planned for typhus vaccines."

Is this the letter?

A. Yes. This is the letter of 13 November 1943. I may point out in this letter that I asked for a hundred prisoners in good physical condition. Only in this way could I expect results which could be used for purposes of comparison.

Q. Professor, I have something to put to you from this document which is perhaps a contradiction—or which may be interpreted as a contradiction—of your testimony. You say that you wanted to vaccinate these people and the first sentence of the document seems to indicate that. You write, "their suitability for the typhus vaccinations." Further down, however, in the document you speak of testing a new vaccine. Again, further down, "material which can be compared." One might conclude that these are not vaccinations but experiments. Is this not in contradiction of your testimony?

A. No. That is not in contradiction of my statements. It is apparently necessary for me to supplement my statements by saying the following: as I said, in the Natzweiler camp I wanted to vaccinate a fairly large number of prisoners. The vaccine was ready as far as the laboratory was concerned; it had been tested in animal experiments; it had been tested in self-experiments, and on a small group of volunteers. I, therefore, knew that it no longer involved any danger for the persons vaccinated and that the use of this living vaccine did not bring about any manifest disease. But when a new vaccine is used for the first time in practice it is to a certain degree an experi-

ment, since the tolerance still has to be determined and that can only be determined on a large number of people. The dose still has to be determined and the result of the vaccination still has to be checked on a large number of people. So I admit it is no doubt true that the use of a new vaccine for the first time in practice on a large number of people could still be considered an experiment. I should like to add that in the first large-scale application the titer values and blood were examined. Of course, temperature was taken and all other observations were carefully made in order to get a definite final impression of the effectiveness and tolerance of the vaccine. We had to do this; it was our duty. It was a big responsibility to introduce a new vaccine like this, even if one had already gained experience in a small experiment on oneself and volunteers. But in this trial the word, "experiment," has been grossly misused. In this sense our vaccinations were not "experiments", they were tests and not experiments with any uncertain goal or purpose. One can hardly speak of criminal experiments here. And in every medical journal in the world, on almost every page, we find experiments at the sick bed, and I don't think anyone has any objection to this word. And as far as human experiments are concerned, I should like to refer to advertisements which show the public attitude of an American firm—in picture magazines which I have seen myself. Antiseptics such as Listerine, where they speak of human beings on whom tests have been made, who were used as guinea pigs. For this reason alone I think the word, "experiment", is used in different senses.

Q. One term has not yet been cleared in this document, the last words, "comparable material." Can you please explain what that means? What did you mean by "comparable material"?

A. That means that the investigations indicated had already been made and that the results were to be compared with one another, so that one could have really useful results. The individual values of every immunologist vary considerably according to the constitution and general physical condition. That was one of the reasons why I was very careful to obtain only those persons in good physical condition for vaccination, since persons in a poor condition react quite differently. Besides, I must point out that according to the general vaccination regulations, vaccinations of any type can only be performed on healthy people, and I wanted to observe this rule strictly.

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Dr. Tipp: Now, Witness, I turn to the next document, NO–122, Prosecution Exhibit 298. It is a letter from Rose to you dated 13 December 1943. In this letter the frequently mentioned Copenhagen vaccine is again mentioned. Herr Rose writes here that the testing of many vaccines simultaneously gives a clearer picture of better or worse results of a method than the testing of one vaccine

alone. Furthermore, there is mention of the experiments in Buchenwald. Let me ask you first of all, Professor, when you received this letter in December 1943, what did you know about these Buchenwald experiments?

WITNESS HAAGEN: I only heard the details about these Buchenwald experiments from the documents in this trial. Moreover, Dr. Ding's report at the consulting conference in 1943 must be mentioned. I heard of Professor Rose's protest against these human experiments at that time.

Q. You had no connection then with these Ding experiments?

A. I never worked with Ding and knew of his work only from the report at this consulting conference.

Q. The prosecution has deduced regarding these Buchenwald experiments that the efficacy of the vaccine was tested by subsequent infection with pathogenic virus. Will you please say what you have to about that?

A. This attitude on the part of the prosecution ignores the fact, as I said several times, that I never had a strain of virus which is pathogenic to human beings, consequently, I could not carry out an infection such as the prosecution seems to assume. I never thought of carrying out such subsequent infection with a virus pathogenic to human beings, because I was working as a scientist with my own material, and wasn't testing mixture for other vaccines at all.

As I have already said, on the occasion of Aherinesliev, I vaccinated some of the inmates there, with an attenuated virus in order to minimize the reactions to the vaccine. I thought that in the next vaccination I would carry out these primary vaccinations with dead vaccine and I wanted to use such a vaccine that used a dead virus. In the meantime, between Schirmeck vaccines and the new vaccinations in Natzweiler, I had carried my work to the point where I no longer needed a dead vaccine. But the previous history was this: Professor Rose, by sending me this Copenhagen vaccine, thought he was supporting and helping me. And he suggested that I include this dead vaccine in my series of vaccines. Let me say regarding this Copenhagen vaccine that it was a liver vaccine which is said to be much more effective than the other dead vaccines, particularly more so than the lung vaccine; and from it, in dead form, a better protection could be expected. Now, it was my point of view that if we distributed it over 100 persons again and did not get other persons, there would not be enough vaccinations to be of value for comparisons. So, I didn't see any reason for introducing the Copenhagen vaccine. I told this to Professor Rose and Professor Rose answered in the form we have seen in the letter which constitutes this document. This would have given some basis for comparison between the two vaccines. However, I didn't use it because I was no longer interested in it since, in the

meantime, we had succeeded somewhat in attenuating our own virus so that we could do without it. I heard no more from Professor Rose about this vaccine and never received the Copenhagen vaccine.

Q. Then you say, Professor, that this was a dead vaccine, namely the Copenhagen vaccine, and there was also your own dead vaccine which was to be used for a preliminary vaccination to reduce the reaction to the live vaccine. However, this plan although originally intended, was never carried out?

A. Yes. That is so.

Q. Now, Professor, we were talking about your letter to Professor Hirt of 15 [13] November 1943, in which you ask him to make other prisoners available. Was this request met later and were you able to carry out vaccinations in Natzweiler later with your new vaccine?

A. Yes. I received the persons I had requested, and in December of 1943 and January of 1944 we were able to carry out these vaccinations. I performed them in two groups of 40 persons each with my live attenuated virus which is no longer pathogenic to human beings, and this I want to state explicitly.

Q. Professor, please describe these vaccinations briefly to the Tribunal.

A. First, a group of 40 persons was vaccinated. The first vaccination was done with one cc. intramuscularly. One was a vaccine made of murine typhus virus vaccine. In no case did local reactions of temperature or other symptoms occur. The second vaccination took place a week later. This was again one cc. of vaccine introduced intramuscularly. This was no longer pathogenic to human beings. To complete the story I have to say that between the Schirmeck vaccinations in May and these vaccinations, I had turned to the production of a louse typhus vaccine; this vaccine contained live virus. Before it was used in Natzweiler as a vaccine, we tested it on ourselves, that is, with some collaborators, to ascertain the tolerability and effects. We were roughly ten persons, members of the institute and also students. Only then did we use the vaccine on the prisoners in Natzweiler. Four weeks after the last vaccination there were the usual serological examinations. The Weil-Felix reaction was used. The average titer value, let me say, was better than in the vaccinations with the rat virus. It was, namely 2,000. I need not go into these details. The general reactions were normal reactions to inoculation, temperature, and headaches; but there were no manifestations of actual typhus as a result of inoculations.

Q. You are speaking of a first group, so I assume there must have been a second group. How did you carry out the vaccination of the second group?

A. It occurred to me that instead of injecting the vaccine, the vaccination could be performed by scarifying the skin in the same way as

you scrape the skin to make a smallpox vaccination. Therefore, as with the first group, with the same living virus vaccine, I vaccinated 40 additional persons with scarification of the skin. Let me point out that the experiments on myself and on my assistants were carried out in the same way, with scarification of the skin. The reactions were comparatively mild, corresponding roughly to the reactions to vascular typhus vaccine, so that we had no misgivings about undertaking this kind of vaccination.

Q. You described the reactions of yourself and the volunteers as very slight. Now, the reactions of the prisoners were stronger, were they not?

A. Yes. They were stronger again. And this we can only explain by believing that the general state of health among the prisoners was lower than among my associates; but there was no such thing as a natural manifestation of typhus or any fatalities.

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Q. But, Professor, to this statement I shall have to put to you something which was said before this Tribunal and which is quite different from what you have just said. I am referring to the testimony of the witness, Edith Schmidt. On 9 January 1947 (*Tr. p. 1371*), she said that you had carried out vaccination experiments on 100 to 150 persons in Natzweiler, and out of these experiments roughly 50 are said to have died from the control group. Fraeulein Schmidt stated that she knew this from notes which your technical assistant, Miss Crodel, had made about the typhus experiments at Natzweiler. Can you please tell the Tribunal to which notes Fraeulein Schmidt was referring—in other words, how do you explain her testimony?

A. It is utterly impossible for Fraeulein Schmidt to have seen records of notes of my vaccinations in Natzweiler in which fatalities occurred because as I have already said no one died following the vaccinations. These notes of Fraeulein Crodel's which Fraeulein Schmidt saw do not refer to the vaccinations. That can be seen from the numbers mentioned by Fraeulein Schmidt, because I only vaccinated 80 persons at Natzweiler, not 150 to 200 as the witness stated. The witness apparently took this number and the concept of a control group from later writings, which are to be discussed hereafter; but I can imagine to which note she could have been referring.

Q. Please continue, Witness.

A. The witness states correctly when these notes were made, because she says the sun was shining on the pages. That must have been in the spring or summer of 1944. This corresponds with the time when the typhus epidemic was raging in the camp. Thus I assume that Fraeulein Schmidt really did see genuine notes of some sort.

Q. Then, Witness, you are saying that these were notes which were made in the course of an epidemic that took place in Natzweiler, can you tell us when this epidemic broke out?

A. So far as I can state from memory, the epidemic broke out in February or March of 1944. Gradually the number of cases became very large, and in the summer the very considerable figure of roughly 1,200 was reached.

Q. Let me point out in this connection that this epidemic is confirmed by two prosecution witnesses: Grandjean on 6 January (*Tr. p. 1099*) and the witness Holl on 3 January 1947 (*Tr. p. 1058*). Both witnesses stated that in the spring of 1944 and also in the summer following, there was a severe typhus epidemic in Natzweiler. The witness Grandjean gave the number as 1,200 to 1,400 cases, as I remember, thus this would agree with what you have just said, Witness. Now, the most important question in this connection is, did the outbreak of this epidemic have any connection with your vaccinations—what I mean is, were your vaccinations the cause of this epidemic?

A. No. There was no connection between the epidemic and our vaccinations. Our vaccinations had already been concluded in January 1944, and the first typhus cases occurred in February or March, and they were brought into the camp from outside, either by transports or from other camps. Let me repeat that the sick people were taken from outside camps to Schirmeck where they were treated in a special department, because there was no way of isolating them in the outside camps.

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CROSS-EXAMINATION

MR. MCHANEY: Let's pass on to the notebook. Now, what does the notebook show? What is this notebook?

WITNESS HAAGEN: That is a control book in which the experiments with the typhus vaccine on the animals were recorded.

Q. Does that notebook concern your typhus experiments?

A. As far as I can see now, it looks as if that was the current laboratory work which we were carrying out. That is what it looks like, but I'd have to see all of it first.

Q. Now, Professor, you must be able to tell the Tribunal who wrote this book.

A. The technical assistant kept it, and from the handwriting, it looks as if she made these entries; but I can't interpret every record after such a long time. I have to study it first. We did not only have vaccinations, but also scientific work.

Q. But to the best of your memory, you can state that this notebook was written by Fraeulein Crodel, and it concerns the experiments carried out by you?

A. The laboratory work, as far as I can see at the moment. I would like to make that restriction.

MR. MCHANEY: The prosecution asks that Document NO–3852 be marked as Prosecution Exhibit 521 for identification.

Now, Professor, we have covered the chart of the test on the two mice. Let's go to the notebook itself. And in order to follow my questions, I will ask you to observe the pencil numbers which I have written on this photostatic copy down at the bottom right-hand corner of each page. Do you find that?

A. Yes.

Q. Will you turn to page 3?

If the Tribunal, please, it will be necessary to renumber the pages appearing on your translations. This applies equally to the defense counsel. When the translation was made, they took some pages off the reverse side of the photostatic copy, and because of the two pages appearing for one photostatic copy, they had to be renumbered. Page 5 on the translations should be marked page 3.

Do you find the entry for 30 April 1943, Professor?

A. 30 April '43, yes.

Q. And that says, "S, plus, plus, 9, Sch." That is Schirmeck, isn't it, Professor? "Sch."?

A. No. That means ninth passage. It is supposed to be "pas.", ninth passage.

Q. It says "Sch.", what does "Sch." mean?

A. It doesn't look like "Sch." to me.

Q. What does it look like to you?

A. In German, I think it looks like a "p", a German "p".

Q. And you think it should read what?

A. First, I said it is probably "passage—ninth passage".

Q. All right. Let's go down to the entry, the next one for 14 May. In parenthesis "two weeks," does that mean the vaccine had been stored for two weeks?

A. Where is that? I can't find it.

Q. 14 May, immediately —

A. It probably means that it was stored for two weeks, yes.

Q. And then you go on, and it reads, "1 plus two point two for six mice, point five, I. P. All injected again, six point six immune, only two out of four of the controlled died," right?

A. Yes. That is right.

Q. Then, the next is 26 May, "four weeks, three dash six," what does "three dash six" mean, Professor?

A. "Four weeks, three to six," only I can't tell you at the moment. I'd have to reconstruct what the assistant wrote.

Q. Well, passing that for the moment. It continues to read, "point 5 per person and six mice point five I. P., five dead after ten, fourteen days. The rest after four weeks." What does "the rest" refer to, the one mouse? Does that refer to those unidentified persons?

A. No. That refers to the mice. It was simply a mouse experiment. It says "five dead." We should have all the information on the mice. This is only an extract.

Q. But this is May 1943, when you were vaccinating people in Schirmeck, and this entry says "three dash six, point five per persons". Now you are not suggesting to the Tribunal that the "persons" are referring to the mice? It continues to say—

A. But when it says "six mice" with "point five", that was the serum, I suppose, because we were also testing the immunizing effect on mice. I can't interpret it differently at the moment. "Four weeks", that means the vaccine had been stored for four weeks. "Point five per persons" were vaccinated. That might mean that it was a comparison experiment, that the effectiveness was to be tested on mice. At the moment I can't give any exact interpretation. I'd have to study the document very carefully.

Q. What does this "per person" refer to? Talking about human beings, aren't they?

A. Yes. It is very possible that that was the vaccine which we had injected into the persons in Schirmeck in May of '43; and then in parallel experiments, we tested it on mice. It was still pathogenic to mice. It was the murine typhus virus.

Q. But not pathogenic to human beings. It killed the mice, but you were sure it wouldn't kill any human beings, is that right?

A. Yes. The vaccination showed that.

Q. Let's see what it showed. Let's look at the entry for 6 July, and you will recall that this is right about the time that our witness, Hirtz, was testifying. On 6 July, "drawings of blood, Schirmeck, 10 persons, 3 had fever, Weil-Felix," and then under number 1 to 8, indicating persons 1 to 8, you give the serum titer count, and then comes a little phrase, "the other two were not here anymore." Professor, what about these other two persons out of the ten? You remember that the witness Hirtz testified that he personally sewed two bodies up in a paper bag, which were delivered to the crematorium after you had injected your vaccine. Doesn't this, "the other two are not here anymore", rather substantiate what the witness Hirtz testified to?

A. No. I wouldn't say that. In my direct examination, I said that on checking these vaccinated persons, no one was missing. Whether later perhaps—these serological examinations were in May, two months before—whether some of the prisoners went in the mean-

time, I don't know. If anyone had died there would have been an entry somewhere in the record, I should think.

Q. Doesn't that entry say, "the two weren't here anymore"? Where were these serological examinations in May? I don't see that in your records. Does it show any serological examinations in May?

A. In the institute. And this is a later check on the immunity through the Weil-Felix experiments.

Q. We will proceed, Professor. Now you testified you did not conduct any vaccinations after May 1943 in Schirmeck, and I must have given you an opportunity at least five times to make that perfectly clear. And even on the last document I put to you, you still insist you did not make any. The next entry reads, "4 October 1943, six months, inoculated 20 persons in Schirmeck, tube plus 2 cc. distilled water, 0.5 per person".

Do you want to change your testimony now, Professor?

A. First I have to read it carefully. There is a figure here, "six months". I have to interpret that "20 persons inoculated in Schirmeck". Those are probably the 20 people we vaccinated in May, whom the witness here mentioned. "Two cc. distilled water, then 0.5 cc. per person." I do not know even today that we carried out vaccinations in Schirmeck in the fall of 1943. Then there is an entry on the 27th of January, 1944, "nine months".

Q. That is right. That gives you the length of time you had this vaccine stored, does it not, Professor? On 4 October 1943 you had it stored six months? You inoculated 20 persons in Schirmeck on 4 October, did you not, as you stated in your letter to Rose on the same date: "the inoculations are now progressing," or words to that effect? You remember you said to Rose in a letter of 4 October 1943, which I put to you, that was just a plan that you would do that. This entry indicates you did do it, does it not, Professor?

A. I must stress what I said before. Afterwards it suddenly says "January 1943". That is a time much farther back.

Q. Yes, it is further back. It is obviously a mistake, Professor, as you well know. Sometimes people running from December over into January make a mistake and put the last year, you know, and that is obviously what happened in this case because he could not write a contemporaneous entry for January 1943 and then have it appear up above that entry, entries for October, July, and May and April 1943, could he, Professor? You will agree with me that the date should read 27 January 1944, when the vaccine had been stored nine months dating from 30 April 1943, is that not right, Professor?

A. I cannot remember that we vaccinated anybody in Schirmeck later; I am very sorry.

Q. You remember that you did not vaccinate anybody after May, Professor?

A. Yes. That is right.

Q. On 27 January 1944, which is the next entry, "nine months, mixed with the same amount as 21 May distilled water plus tube, 20 persons 10 cc. each". Those were in Schirmeck, too, were they not, Professor?

A. It says 1 cc., 1 point 0 cc. It does not say anything about Schirmeck. I cannot say. I must assure you once more that I actually know nothing about these vaccinations. I am very sorry.

Q. Let us proceed to page 4, Professor. It is apparently another series on Schirmeck. Do you find the entry on page 4? Your Honors should change page 6 to page 4.

PRESIDING JUDGE BEALS: Our pages are numbered 1 and 2. You are referring to the numbers on the original document?

MR. MCHANEY: Yes, your Honor, page 6 on our translation. Page 6 of the original, should be changed to read page 4 of the original.

Now, Professor, do you find an entry on page 4 before you, of 10 October, "five months, inoculated ten persons in Schirmeck"? Do you find that, Professor?

WITNESS HAAGEN: Yes.

Q. That indicates you inoculated some after 4 October 1943, vaccinations which you mentioned in your letter to Rose, and which are confirmed by this notebook.

And then, under the entry for 10 October, you find 27 January 1944. Does it appear 1944 on the original?

A. 27 January 1944, yes.

Q. Eight months?

A. Eight months, yes.

Q. You speak of inoculating 20 persons there, do you not, Professor? Can you tell the Tribunal that those were done in Schirmeck?

A. I do not know that vaccinations were performed in Schirmeck at this time. We were only vaccinating in Natzweiler at this time, and I did not hear that such vaccinations were carried out. I am sorry.

Q. All right.

A. I am trying to interpret the document.

Q. Professor, let us go on to page 5. Do you find page 5, Professor?

A. Yes.

Q. This mentions another series of inoculations in Schirmeck, "13 July 1943, approximately seven weeks, Schimeck, 0.5 cc. per person and six mice before the inoculation".

Let us drop down lower on the page. Do you find the entry for 14 October?

Professor, do you find that?

A. Yes.

Q. "Ten persons inoculated for the third time with 1 cc." Professor, I thought you told us that you did not carry out multiple vaccinations with your murine vaccine in Schirmeck.

A. I have already testified that the only vaccinations in Schirmeck were in May 1943. I do not know from where this record came. In the fall of 1943 we were only working in Natzweiler. I am sorry, I cannot give any explanation.

Q. This entry, though, Professor, indicates an inoculation for the third time on a series of ten persons. That was your "Infektions-Versuche," was it not, Professor?

A. No. I know nothing about it; I am sorry.

Q. But your series of three vaccinations was what you referred to as the "Infektions-Versuche," was it not, Professor?

A. But these were vaccinations which were carried out in Natzweiler, Mr. Prosecutor.

Q. The book says they were carried out in Schirmeck, and about four days before, on the 4th of October 1943, you wrote to Rose and said, "We have to carry out infection experiments." Professor, is it possible that you really meant by "infection experiments" something other than your three-times vaccination which you had concluded on 14 October 1943?

A. Let me see exactly what it says here, page 5, "10 October–14 October, ten persons, three times point five," it says again. It only says it is a vaccination, if this document is right.

Q. Does the document say, "Vaccinated ten persons, inoculated for the third time"? Is that what it said?

A. Yes. It says so. In May at Schirmeck in the control group we vaccinated three times. That is not impossible; but what I notice on this document, if you want to connect it with the Ipsen vaccine, is that it does not say anything about the Ipsen vaccine; I have not found that yet, but it does say Gildemeister.

Q. I have not mentioned anything about Ipsen vaccine. Let us proceed, Professor, so that we get through before the noon recess. Remember, you testified you had not carried out any vaccinations in Natzweiler after January 1944. Professor, will you turn to page 7 of this little notebook on your experiments, and while this is not the only entry which shows that you carried out vaccination experiments in Natzweiler after January 1944, I think it will be sufficient for our purposes. Do you have page 7? Will you find the entry?

A. Yes. I have page 7.

Q. Will you find the entry for 25 May 1944?

A. Yes.

Q. Does that read, "Together with S inoculated, used up five tubes of M I in Natzweiler; two ampules distilled water, three to four cubic centimeters per ampule vaccine, 0.5 cc. The inoculation took place

during the incubation period, a transport also containing sick people, 13 became sick in the period from 29 May to 9 June; of those, two died."

Then it continues to give the titer value of some of the others. Professor, don't you have to change your testimony about vaccination in Natzweiler?

A. No. I cannot change it. I know nothing about this.

Q. Professor, let us look at words "together with S". What do you understand "together with S" to mean? It is 25 May 1944?

A. I have no idea what "S" means.

Q. You testified that the defendant Schroeder visited you and you fixed the date, 25 May 1944. Is there any possibility that that "S" could mean Schroeder?

A. No. That is quite impossible. Impossible. Professor Schroeder never carried out any experiments with me nor did any work in my laboratory. He was not with me in Schirmeck or Natzweiler.

Q. He was not with you in Natzweiler?

A. No.

* * * * * * *

10. EXPERIMENTS WITH POISON

a. Introduction

The defendants Genzken, Gebhardt, Mrugowsky, and Poppendick were charged with special responsibility for and participation in criminal conduct involving experiments with poison (par. 6 (K) of the indictment). Only the defendant Mrugowsky was convicted on this charge.

The prosecution's summation of the evidence on the experiments with poison is contained in its closing brief against the defendant Mrugowsky. An extract from this brief is set forth below on pages 631 to 632. A corresponding summation of the evidence by the defense on these experiments has been selected from the final plea for the defendant Mrugowsky. It appears below on pages 633 to 634. This argumentation is followed by selections from the evidence on pages 634 to 639.

b. Selection from the Argumentation of the Prosecution

EXTRACT FROM THE CLOSING BRIEF AGAINST DEFENDANT MRUGOWSKY

* * * * * *

Poison Experiments

Poison experiments were carried out in the Buchenwald and Sachsenhausen concentration camps by order of the defendant Mrugowsky

(*Tr. pp. 1183–6*). The first series of the experiments was carried out in December 1943 in order to determine the fatal dosage of poisons of the alkaloid group. These experiments were requested by the SS judge, Morgen, who investigated the criminal case against Koch, camp commander of Buchenwald, and the defendant Hoven. Hoven was suspected of having killed a witness against Koch and himself by means of poison. Four Russian prisoners of war were experimented upon by Ding. The poison was administered to the experimental subjects in their food without their knowledge. All four survived, but were strangled in a crematorium of the concentration camp in order that autopsies could be performed. (*Tr. pp. 1183–6; NO–265, Pros. Ex. 287.*) Since Ding was subordinated to Mrugowsky, this experiment could not have been performed by Ding without Mrugowsky's approval.

On 11 September 1944 Mrugowsky and Ding carried out an experiment with aconitine nitrate projectiles in the Sachsenhausen concentration camp. The projectiles were filled with crystallized poison and five experimental subjects were shot in the upper part of the left thigh with these projectiles. In two cases, no effect of the poison could be observed. In the other three cases, the suffering of the experimental subjects was terrible. All three died after approximately two hours of agony. The poison bullets used in the experiments were allegedly of Russian origin. (*NO–201, Pros. Ex. 290.*)

The experimental subjects were Russian prisoners of war. (*Tr. p. 1186; see also Kogon's testimony in Case 4.**) Mrugowsky admitted his participation in these experiments. He defended himself on the ground that he was the legally appointed executioner in this case. Assuming the truth of this absurd statement, it cannot be held legal to torture to death prisoners of war even if they had been validly sentenced to death.

On 26 October 1944 still another poison experiment was carried out by Ding in Buchenwald. The entry in the Ding diary for that date states: "Special experiment on 6 persons according to instructions of SS Oberfuehrer Lecturer Dr. Mrugowsky and RKPA. (Report on this orally.)" Kogon testified that Ding told him the Russian prisoners of war used in the experiments died in a short time. They were later dissected and burned. Ding reported to Mrugowsky orally. These experiments were connected with the poison bullet experiments in the Sachsenhausen concentration camp. (*Tr. pp. 1185–1186.*)

* * * * * * *

*United States *vs.* Oswald Pohl, et al. See Vol. V.

c. Selection from the Argumentation of the Defense

EXTRACT FROM THE FINAL PLEA FOR DEFENDANT MRUGOWSKY[1]

* * * * * * *

In respect to the poison experiments, I proved in my written statement that Ding's assertion that Mrugowsky had ordered him to be present at a euthanasia killing by phenol is not correct. Professor Killian, who according to Ding's statement, was present when the order was given, said that this statement of Ding's was incorrect. It showed that the examination of the question of whether the noxious effect of serums containing phenol can be proved by the comparative use of serums with and without phenol, and also a series of experiments with serums containing phenol was never carried out.

The experiments with pervitin were carried out on the initiative of Dr. Morgen and Dr. Wehner, according to the Ding diary. I proved that no harm was caused to the health of the experimental subjects by these experiments. The experiments were performed with pervitin which can be obtained in any chemist's shop without a prescription and consequently is not a poison. In the experiments it was used together with a narcotic because the authority wanted to determine whether, as a result of this treatment, the effect was increased one way or the other. The only effect was that the experimental subjects fell into a disturbed sleep for up to 20 hours. This pervitin experiment was not ordered by Mrugowsky; he did not participate therein in any way, and the prosecution did not even contend that he knew of it. No responsibility under criminal law may be deduced against him from this experiment.

With regard to the special experiment on 6 persons mentioned in Ding's diary, it is again solely the witness Kogon who gave details. In my closing brief I pointed out that, in this case too, Kogon gave contradictory testimony in the Pohl trial[2] and the doctors' trial about the origin of this experiment. Thus his evidence has no probative value. Moreover, Kogon's description of this experiment, except for the sealing and the burning of the prescription, is only based on Ding's statements. In respect to this special experiment, there is no evidence whatsoever to show the type of poison used, the manner in which the special experiment was performed, and the aim of the experiment. After the collapse, Ding told the defendant Sievers that towards the end of 1944 in Buchenwald he had filled 80 phials with prussic acid in order to commit suicide, but he unfortunately took none of them with him.

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[1] Final plea is recorded in mimeographed transcript, 17 July 1947, pp. 11049–11074.
[2] United States *vs.* Oswald Pohl, et al. See Vol. V.

No one can prove whether Ding carried out his "special experiment" with these prussic acid capsules because Ding left no report about the course of the special experiment.

The Ding diary states that the experiment was performed by order of Mrugowsky and the Reich Criminal Police Office. Because the diary has such little probative value, the truth of this contention cannot be proved by this document alone. No other evidence has been submitted to show that Ding poisoned 6 prisoners by order of Mrugowsky. Therefore there is no conclusive evidence to prove that Mrugowsky ordered this experiment or that he even knew about it.

The prosecution further indicted Mrugowsky because of an execution performed at Sachsenhausen in which ten bandits sentenced to death were executed with bullets poisoned with aconitine. I have proved that Mrugowsky attended this execution only as the usual doctor present at an execution. I further demonstrated that the execution took place because, in an attempt on the life of a high-ranking civil servant in the General Government, Russian revolver ammunition had been used in which hollow bullets had been filled with aconitine poison. This use of poisoned Russian bullets, and Henderson's book which described the preparation for the use of poisoned bullets in the First World War, had increased the concern that poisoned bullets would shortly be used at the front. I proved that poisoned ammunition was used at the execution to determine whether pure aconitine or a poison mixture had been used in the bullets, and how much time would be available in case of need to administer antidotes.

I proved that all executions in the concentration camps were ordered by the Reich Criminal Police Office, and that the presence of a doctor at such executions was prescribed. The execution at Sachsenhausen was ordered by the Reich Criminal Police Office. No charge under criminal law can be deduced against Mrugowsky from his attendance as a doctor at the execution. I have explained this in detail in my closing brief.

* * * * * * *

d. Evidence

Prosecution Documents

Doc. No.	Pros. Ex. No.	Description of Document	Page
NO–201	290	Report from Mrugowsky to the Criminological Institute, 12 September 1944, concerning experiments with aconitine nitrate projectiles.	635

Testimony

Extract from the testimony of prosecution witness Dr. Eugen Kogon----- 637

PARTIAL TRANSLATION OF DOCUMENT NO-201
PROSECUTION EXHIBIT 290

REPORT FROM MRUGOWSKY TO THE CRIMINOLOGICAL INSTITUTE, 12 SEPTEMBER 1944, CONCERNING EXPERIMENTS WITH ACONITINE NITRATE PROJECTILES

Reich Physician SS and Police
The Chief Hygienist
Journal No.: Secret 364/44 Dr. Mru./Eb.

Berlin-Zehlendorf 6,
12 September 1944
Spanische Allee 10–12

Top Secret

Subject: Experiments with aconitine nitrate projectiles
To the Criminological Institute [Stamp]
attn: Dr. Widmann

Berlin

Criminological Institute
Department: Chemistry
received: 13 Sep 1944
Journal No. g 53/44
in charge:

In the presence of SS Sturmbannfuehrer Dr. Ding, Dr. Widmann, and the undersigned, experiments with aconitine nitrate projectiles were conducted on 11 September 1944 on 5 persons who had been condemned to death. The projectiles in question were of a 7.65 mm. caliber, filled with crystallized poison. The experimental subjects, in a lying position, were each shot in the upper part of the left thigh. The thighs of two of them were cleanly shot through. Even afterwards, no effect of the poison was to be observed. These two experimental subjects were therefore exempted.

The entrance of the projectile did not show any peculiarities. Evidently the arteria femoralis of one of the subjects were injured. A slight stream of blood issued from the wound. But the bleeding stopped after a short time. The loss of blood was estimated as having been at the most ¾ of a liter, and consequently was on no account fatal.

The symptoms of the condemned three showed a surprising similarity. At first no peculiarities appeared. After 20 to 25 minutes a motor agitation and a slight ptyalism set in, but stopped again. After 40 to 45 minutes a stronger salivation set in. The poisoned persons swallowed repeatedly, but later the flow of saliva became so strong that it could not even be overcome by swallowing. Foamy saliva flowed from their mouths. Then choking and vomiting set in.

After 58 minutes the pulse of two of them could no longer be felt. The third had a pulse rate of 76. After 65 minutes his blood pressure was 90/60. The sounds were extremely low. A reduction of blood pressure was evident.

During the first hour of the experiment the pupils did not show any changes. After 78 minutes the pupils of all three showed a medium dilation together with a retarded light reaction. Simultaneously, maximum respiration with heavy breathing inhalations set in. This subsided after a few minutes. The pupils contracted again and their reaction improved. After 65 minutes the patellar and achilles tendon reflexes of the poisoned subjects were negative. The abdominal reflexes of two of them were also negative. The upper abdominal reflexes of the third were still positive, while the lower were negative. After approximately 90 minutes, one of the subjects again started breathing heavily. This was accompanied by an increasing motor unrest. Then the heavy breathing changed into a flat, accelerated respiration, accompanied by extreme nausea. One of the poisoned persons tried in vain to vomit. To do so he introduced four fingers of his hand up to the knuckles into his throat, but nevertheless could not vomit. His face was flushed.

The other two experimental subjects had already early shown a pale face. The other symptoms were the same. The motor unrest increased so much that the persons flung themselves up, and down, rolled their eyes and made meaningless motions with their hands and arms. Finally the agitation subsided, the pupils dilated to the maximum, and the condemned lay motionless. Masseter spasms and urination were observed in one case. Death occurred 121, 123, and 129 minutes after entry of the projectile.

Summary. The projectiles filled with approximately 38 mg. of aconitine nitrate in solid form had, in spite of only insignificant injuries, a deadly effect after two hours. Poisoning showed 20 to 25 minutes after injury. The main reactions were salivation, alteration of the pupils, negative tendon reflexes, motor unrest, and extreme nausea.

[Signature] Mrugowsky
SS Lecturer Oberfuehrer and Office Chief.

Poison Projectile of a Russian 7.65 Caliber Pistol Cartridge

(Perspective view, scale 10 : 1)

[Illustration]

The projectile is cut open and ¼ of the lead core (1 segment) is removed. The lead seal at the bottom of the projectile is not shown in this illustration. The section is clearly visible on the right half of the jacket of the projectile.

Criminological Institute of the Security Police
Department: Chemistry
Journal No. g 15/44

Russian 7.65 mm. Caliber Pistol Cartridge with Poison Projectile

(Stamp on bottom of cartridge case: Geco)

[Illustration]

Criminological Institute of the Security Police
Department: Chemistry

EXTRACT FROM THE TESTIMONY OF PROSECUTION WITNESS DR. EUGEN KOGON*

DIRECT EXAMINATION

* * * * * * *

Mr. McHaney: Do you know anything about experiments with poisons in the Buchenwald concentration camp?

Witness Kogon: I know of two such cases. The one case was about the turn of the year 1943–44 or in the late fall of 1943, and the second case was probably in the summer of 1944. In each case Russian prisoners of war were used for these experiments. In the first case various preparations of the so-called alkaloid series were put into noodle soup and administered to 40 of these prisoners of war who were in Block 46. They, of course, had no idea what was going on. Two of these prisoners became so sick that they vomited, one was unconscious, the fourth showed no symptoms at all. Thereupon, all four were strangled in the crematorium. They were dissected and the contents of their stomachs and other effects were determined. The experiment was ordered by the SS court, by the SS investigating judge, Sturmbannfuehrer Dr. Morgen. It was carried out in the presence of Dr. Ding, Dr. Morgen, Dr. Wehner, SS Hauptsturmfuehrer and SS judges, and one of the three camp leaders, I do not know whether it was SS Sturmbannfuehrer Schubert or SS leader Florstedt. The second experiments—

Q. Witness, before continuing with the second experiment, I wonder if you could tell the Tribunal the reason why this poison experiment which you have just mentioned was carried out?

A. In the summer of 1943 the SS court in Berlin was trying the former commander of Buchenwald and later commander of the Lublin concentration camp in Poland, SS Standartenfuehrer Koch. The trial was reaching its climax. The investigation had led to very serious charges against Koch. Here I must mention that SS Obergruppenfuehrer Prince Waldeck, then head of the SS main district [Oberabschnitt] Fulda-Werra, was personally opposing Koch, and it was merely this personal antagonism of the two men which had brought

*Complete testimony is recorded in mimeographed transcript, 6, 7, 8 Jan 1947, pp. 1150–1300. See also testimony of defendant Mrugowsky, sec. VIII G, vol. II.

about the trial. A man by the name of Koehler, a Hauptscharfuehrer in Buchenwald, was arrested by Dr. Morgen and kept in custody in the Buchenwald concentration camp. This Hauptscharfuehrer seemed to have testified against Koch. Two or three days later this Hauptscharfuehrer Koehler was found dead in his cell. A few hours before he had been quite healthy. He seemed to have taken strong poison. Dr. Morgen contended that Dr. Hoven, together with the guard, Hauptscharfuehrer Sommer, had killed Koehler. Koehler was dissected in the dissecting room in the presence of a scientist from Jena and two of my comrades. The head of the pathology section was also present. Drugs of the alkaloid series were found in the stomach of the dead man. The amount and the specific type was not known. In order to determine the fatal dosage of poisons of this type, the SS court ordered an experiment on four Russian prisoners of war. This is the experiment which I have just described in Block 46. On 20 September 1943, Dr. Hoven was arrested on Dr. Morgen's orders and remained in the custody of the SS court until the end of March 1945. I know the date exactly because on that Saturday afternoon Dr. Hoven came to Block 50 on his motorcycle, asked me about Dr. Ding-Schuler, who was not there, and went away again quite depressed. Half an hour later I learned from the hospital, the prisoners' hospital, that Dr. Hoven expected to be arrested himself.

Q. In other words, Hoven was suspected by Morgen of having done away with the witness against Koch, is that right?

A. Yes.

Q. Now, will you explain to the Tribunal about his second poison experiment?

A. In the summer of 1944—I am not quite sure of the exact date—Dr. Ding, who was already called Schuler, came from Berlin at the time and told me that he had a very unpleasant task to perform. He said it was extremely secret and a few hours later, without my having asked, he told me details about it in his room.

I must point out that at this time there was really nothing at all private or official, that Dr. Schuler would not have told me in order to get my advice. He realized quite clearly that the cause of National Socialism was lost. He was only looking for safety.

He said, "Kogon, can you see any way of getting me out of this affair? I am supposed to test a poison here on Russian prisoners of war. I have to report on it immediately. It is a direct order from Mrugowsky. I don't know how I can get out of it."

He gave me the prescription, the chemical formula of this poison, and I was to put this prescription in an envelope and seal it in his presence. In my haste I was not able to read it. It had some code name. I put the prescription in the envelope and only said to him,

because we were interrupted, "You know my point of view." I must add here that in long conversations at night I had tried to explain to him that his only way out was to do as much as possible for the political prisoners, but that in serious cases he must, as a human being, refuse to carry out orders which violated the moral laws.

He laughed when I said that and replied, "I know your religious and moral ideas. You know I don't believe in anything. This way is out of the question for me; all I can do is comply with the first suggestion and collaborate with the political prisoners."

In this poison case, he went in great haste and excitement to the camp leader, Sturmbannfuehrer Schubert, whom he had informed beforehand by telephone, and the commander, Oberfuehrer Pister, who also knew about it and they all went—I don't know whether the camp physician was also present—at any rate, they went to the crematorium, not to Block 46. The Russian prisoners of war, again, four of them, had been taken there into the cellar with the 46 hooks on the walls on which the people were strangled. These four Russians were given this poison. I do not know how it was administered. As Ding-Schuler told me later, they died in a very short time. Then they were dissected and cremated. Dr. Ding did not send a written report on this matter to Berlin. He told me he had to report on it to Mrugowsky orally. Ding was not only excited about this matter, but afterwards he was also very secretive about it. He did not want me to talk about it any more. From indications in his conversation I learned that there was some connection with experiments in the Sachsenhausen concentration camp near Oranienburg which Mrugowsky had performed in Ding's presence. Prisoners must have been shot there with poisoned bullets, because Ding said that a Russian prisoner of war had succeeded in getting hold of a knife and attacking Mrugowsky, but that the prisoner had been immediately overpowered.

In any case, Ding did not want to have anything more to do with the matter, even in my presence. A short time later the prescription and the sealed envelope were burned by Ding in my presence. He held it over a candle in my presence and burned it. I could not find out what the contents were.

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II. INCENDIARY BOMB EXPERIMENTS

a. Introduction

The defendants Genzken, Gebhardt, Mrugowsky, and Poppendick were charged with special responsibility for and participation in criminal conduct involving incendiary bomb experiments (par. 6 (L) of the indictment). The defendants were acquitted on this charge.

The prosecution's summation of the evidence on the incendiary bomb experiments is contained in its closing brief against the defendant Poppendick. An extract from this brief is set forth below on page 640. A corresponding summation of the evidence by the defense on these experiments has been selected from the closing brief for the defendant Poppendick. It appears below on pages 641 to 643. This argumentation is followed by selections from the evidence on pages 643 to 653.

b. Selection From the Argumentation of the Prosecution

EXTRACT FROM THE CLOSING BRIEF AGAINST DEFENDANT POPPENDICK

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Incendiary Bomb Experiments

Sturmbannfuehrer Ding-Schuler (hereinafter referred to as Ding) carried out incendiary bomb experiments in the Buchenwald concentration camp between 19 and 25 November 1943. (*NO–265, Pros. Ex. 287.*) In order to ascertain the effectiveness of the drug R 17 and echinacine ointment and liquid for the treatment of phosphorus burns, five experimental persons were deliberately burned with ignited phosphorus which was taken from an incendiary bomb. The resulting burns were very severe, the victims suffered excruciating pain and permanent injury. The drugs to be tested were manufactured at the Dr. Madaus Works in Dresden-Radebeul. (*Tr. pp. 1187–90.*)

The report on these experiments (*NO–579, Pros. Ex. 288*) was forwarded by Ding to the defendants Poppendick and Mrugowsky. (*Tr. pp. 1158, 1188.*) The Research Department "V" (for Vonkennel) in Leipzig was also interested in these experiments. Correspondence by Ding with this department went through Poppendick. (*Tr. pp. 1158, 1175, 1247, 1267.*) Research Department "V" was a laboratory run by Sturmbannfuehrer Vonkennel, with funds and material furnished by Grawitz. (*Poppendick 9, Poppendick Ex. 8; Tr. pp. 5589–5592.*) Poppendick was the expert in Grawitz' office responsible for the work of that laboratory. (*Tr. p. 1267.*) This testimony of Kogon is corroborated by letters from Vonkennel to Poppendick and Ding to Poppendick concerning typhus experiments. (*NO–1182, Pros. Ex. 477; NO–1184, Pros. Ex. 476; NO–1185, Pros. Ex. 478.*) The latter was actually typed by Kogon for Ding, as can be seen from the file notation.

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c. Selection from the Argumentation of the Defense

EXTRACTS FROM THE CLOSING BRIEF FOR DEFENDANT POPPENDICK

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Experiments with Incendiaries

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Evaluation of Evidence

The prosecution questioned the witness Kogon about the dispatch of reports on experiments with incendiaries. He stated:

> "The photos were placed opposite each other, mounted in an album, described in detail; the result sent in two copies to Berlin, one to Professor Mrugowsky, the other—here I am not quite sure—to Oberfuehrer Poppendick. I believe that Oberfuehrer Poppendick certainly received one report concerning this matter because Dr. Ding intended to publish a dissertation on this in a medical journal."

The prosecution then referred in this connection, to the entry in the so-called Ding diary under 5 January 1944 (*NO-265*, *Pros. Ex. 287*):

> "Records dispatched to the Reich Physician SS with the request that they be forwarded to the Dr. Madaus Works."

The prosecution now thought they would be able to connect these two pieces of evidence with one another and wants to prove from this that Poppendick received a regular report, with photos, on experiments with incendiaries, and thus learned about criminal experiments with incendiaries in Buchenwald.

The defense first questioned the persons concerned in Leipzig, in the form of affidavits, about the previous history of the experiments with incendiaries—the affidavit of Dr. Koch from the Madaus Works (*Mrugowsky 103*, *Mrugowsky Ex. 97*), the affidavit of Kirchert (*Poppendick 7*, *Poppendick Ex. 9*), and the affidavit of von Woyrsch (*Mrugowsky 115*, *Mrugowsky Ex. 108*), all of these make similar reports on these events. Each one of these three witnesses, viewing this matter from different angles, was able to testify under oath that the correspondence between Dr. Ding and the firm of Madaus did not pass through Poppendick personally, and that the research section of Professor Vonkennel also had nothing to do with the whole matter as far as it took place in Leipzig, but that the connections were somewhat different in many respects from what might be concluded from the statement of Kogon.

For a person like Kogon, it was, of course, difficult to take in the connections as a whole, as he only occasionally received letters which had anything to do with the questions dealt with here. On the basis of letters still available, he can only draw certain retrospective conclusions today. Therefore, in the formulation of his statements, he exercises a certain caution, qualifying in advance things as they happened by remarks such as "I believe," "certainly," and so on. (*See also testimony, Pohl trial, 22 April 1947;* Poppendick 21, Poppendick Ex. 20.*) For these reasons the phrase "in this case I am not quite sure," relating to Poppendick's knowledge of illustrated reports on incendiaries, can only be taken as an indication of the fact that Kogon did not want Poppendick to be charged, through his sworn testimony, with the knowledge of these reports, with photographs concerning incendiaries. Poppendick has definitely declared that he would certainly have remembered such a report with photographs if he had received it. In this way then, the uncertain statement of Kogon is confronted by the definite statement of the defendant, who could not be accused of any unreliability in the course of his examination. The contention of the defendant is supported by the three above-mentioned affidavits which fully confirm this. Kogon then said, however: "A report, I think * * *"—then again with a certain limitation—"which Oberfuehrer Poppendick certainly received because Dr. Ding intended to publish a dissertation on this in a medical journal."

Although this last statement was made with somewhat more emphasis, but still not with complete certainty, the following comment can be made on it:

It is certain that Kogon had access to the entire documentary evidence as introduced in this trial before making his statement. Without doubt he saw the manuscript of the Ding publication on typhus (*NO–582, Pros. Ex. 286*) with the stamp of approval "by order of Poppendick," even if he did not see it while still in Buchenwald during his stay in the camp. From this he thought he could deduce that Poppendick must be the person responsible—in spite of the words "by order"—for the approval of scientific publications. Kogon knew from his work in Buchenwald that Ding meant to publish a pamphlet on the treatment of burns. He therefore took it for granted that the only way of getting official permission was via Poppendick, whereas actually Poppendick authorized these requests and signed them "by order of" in every case only when given special permission by Grawitz. Neither Kogon nor we know whether such a manuscript was ever actually sent in for publication. Even if it was actually sent in, it is

*United States *vs.* Oswald Pohl, et al. See Vol. V.

not certain that Poppendick had to grant permission for its publication. If Poppendick actually authorized the publication of such a pamphlet "by order of"—a fact which cannot be proved—there is a 100 percent probability, taking the typhus manuscript (*NO–582, Pros. Ex. 286*) as an example, that in such a publication the question of artificially inflicting wounds on human bodies would not have been openly mentioned but would have been just as carefully veiled as was done in the manuscript concerning typhus treatment.

It is quite obvious, though, and even the prosecution will not dispute this, that Poppendick otherwise played no part whatever in the incendiary bomb experiments, and had no contact with the authorities responsible for them, such as the Madaus Works, Dr. Ding, etc., whereby he might have been informed of what was going on in Buchenwald also in regard to those incendiary bomb experiments.

* * * * * * *

d. Evidence

Prosecution Documents

Doc. No.	Pros. Ex. No.	Description of Document	Page
NO–579	288	Extracts from a report on the findings of 2 January 1944, on a skin ointment—R 17—for phosphorus burns.	644
NO–1080 A, E, F.	219 A, E, F	Exposures of the witness Maria Kusmierczuk who underwent sulfanilamide and bone experiments while an inmate of the Ravensbrueck concentration camp. (*See Selections from the Photographic Evidence of the Prosecution.*)	901
NO–1082 A, C	214 A, C	Exposures of the witness Jadwiga Dzido who underwent sulfanilamide and bone experiments while an inmate of the Ravensbrueck concentration camp. (*See Selections from the Photographic Evidence of the Prosecution.*)	903

Defense Documents

Doc. No.	Def. Ex. No.	Description of Document	
Mrugowsky 115	Mrugowsky Ex. 108.	Extracts from the affidavit of Udo von Woyrsch, 3 May 1947, concerning experiments on combating injuries due to phosphorus incendiary bombs.	647

Testimony

Extract from the testimony of prosecution witness Eugen Kogon 648
Extract from the testimony of defendant Mrugowsky 651

EXTRACTS FROM A REPORT ON THE FINDINGS OF 2 JANUARY 1944, ON A SKIN OINTMENT—R 17—FOR PHOSPHORUS BURNS

EXPERIMENTS ON ANIMALS

* * * * * * *

EXPERIMENTS ON HUMAN BEINGS

I. Application of the phosphorus-caoutchouc mixture and immediate removal—

1. With R 17.

19 November. The mixture was dropped on a smooth spot of skin on the forearm and immediately thereafter wiped off with a tampon dipped in R 17. R 17 quickly dissolved the phosphorus and the caoutchouc. Subsequent checks showed a complete cessation of phosphorescence. The spot of skin showed an increased temperature until 14 December, as the testers ascertained by placing the backs of their hands against it.

2. With $CuSO_1$.

19 November. The mixture, which had been applied to a smooth spot of skin on the forearm, was removed with a 2 percent solution of copper sulphate. There appeared a blackish-brownish, strongly viscous mass with a metallic sheen which, when rubbed off, spread over the entire experimentation area. After an initial formation of black smoke (phosphorus fumes) and a strong glow, the phosphorescence, because of the formation of a copper-phosphate coating, ceased almost immediately. It seems to be possible that phosphorus, if it comes in contact with small skin wounds, is assimilated into the body by resorption. This spot of skin likewise showed an increase in temperature until 14 December.

3. With water.

19 November. It was always possible to remove the mixture from the skin by water. However, in this case pronounced phosphorescence lasting several minutes and phosphorus fumes were to be observed.

II. Lighting of the phosphorus-caoutchouc mixture and treatment:

1. With R 17.

a. Immediate ignition.

25 November. The mixture was applied to a skin area of 6x3 cm. and immediately ignited. After burning for 20 seconds, it was extinguished with water and then wiped off with R 17. A burn ap-

peared, with a yellowish induration of the skin. Later a thin scab formed. After 3 days, the wound was treated with *liquid echinacine*. On 11 December the scab fell off; the surface of the wound was dry and rosy red. Epithelium formed very rapidly; on 21 December only ⅕ of the surface remained without epithelium. On 29 December this spot too was almost healed.

25 November. The mixture was applied to a skin area of the same size (6x3 cm.) and immediately ignited. It burned for 55 seconds until it went out by itself. The burned spot was wiped off with R 17. There appeared a yellowish-brown burn which exhibited a cavity at the proximal end and a blister at the distal end. An elastic scab formed. On the fourth day the wound was treated with *echinacine ointment*. Thereupon, on 3 December, the scab began to slough off; on 10 December the wound was dry and closed; on 13 December only the edge of the wound still showed a scab and the main part of the wound was covered with fine granulation. The wound continued to become smaller until 29 December without healing over.

b. Ignition after 30 seconds.

19 November. The mixture was applied to 2 sq. cm. of skin. After 30 seconds it was ignited and after burning for 40 seconds it was wiped off with R 17. A dry burn appeared. During the following days a small oedematous swelling developed. The wound was treated with *liquid echinacine*. Thereafter, the swelling subsided rapidly, so that on 1 December there remained a clear, dry wound without necrosis. Subsequently to this a broad zone of epithelization formed and by 29 December the wound had healed with the exception of 0.5 sq. cm. still lacking epithelium.

19 November. The mixture was again applied to 2 sq. cm. of skin, ignited after 30 seconds, but treated with R 17 only after burning 60 seconds. Here too a dry burn appeared, however with severe reddening and pain in the surrounding area. The wound formed a necrotic coating. On the third day it was treated with a 10 percent solution of cod-liver-oil ointment. On 19 December it was circumscribed and dry. A slow epithelization began. Later the wounded skin area became similar to the smooth surrounding area. On 29 December the wound had not yet healed over.

c. Application to a piece of cloth covering the skin.

25 November. The phosphorus-caoutchouc mixture, applied to a piece of cloth covering the skin was ignited. Sixty-seven seconds elapsed before it had burned itself out. The piece of cloth, except for a small remainder, was carbonized. After it was wiped off with R 17 there appeared on skin a burn with a central blister which later developed to a thin, elastic scab. After 3 days the wound was treated with echinacine ointment. Until 3 December cleaning of the wound took place; at this date it was dry, rosy red, and closed; a fine granulation

covered it. Thereupon rapid epithelization began. On 29 December it was not yet healed over.

2. With $CuSO_4$.

a. Immediate ignition.

25 November. The mixture was applied to a skin area of 6x3 cm., and immediately ignited. After burning 20 seconds it was extinguished with water, and then wiped off with copper sulphate solution. During this operation the entire epidermis separated from the area of the wound. An oedematous swelling of the surrounding area, 12x13 cm. in extent and a thick scab formed. Treatment took place with *liquid echinacine.* On 7 December the necrosis began to slough off, and gradual epithelization took place. On 21 December one-third of the area of the wound was still without epithelium (cf. II/1/a/aa). On 29 December the wound was healed over.

25 November. The mixture was again applied to a skin area of 6 x 3 cm. and immediately ignited. After it had burned itself out in 60 seconds, the burned area was wiped off with copper sulphate solution. A brownish-grey burn with thickening of the skin appeared. The thickening developed to a strong scab. It was treated with a 10-percent solution of cod-liver-oil ointment. The surrounding area remained very red and painful. On 10 December a subcutaneous suppuration appeared at the edge of the wound. Consequently the treatment with cod-liver oil was replaced by *liquid echinacine.* On 13 December the scab separated from the greater part of the wound, but the surrounding area remained more inflamed than in the corresponding experiment with R 17 (cf. II/1/a/bb). The granulation was coarse and uneven. On 29 December the wound was not yet healed over; epithelization advanced only slowly.

b. Ignition after 30 seconds.

19 November. The phosphorus-caoutchouc mixture was applied to 2 sq. cm. of skin and left there for 30 seconds; then it was ignited and after burning for 60 seconds wiped off with copper-sulphate solution. A brownish-black viscous mass formed; the dry wound discolored to a blackish-grey. Thereupon a thick crust formed and a considerable oedematous swelling of the area surrounding the wound developed. Treatment took place with echinacine ointment. The swelling subsided more slowly than in the treatment with R 17 (cf. II/1/b/aa). On 5 December the wound was without necrosis, with a wide zone of epithelization. On 29 December it had healed over except for 1 sq. cm. lacking in epithelium (cf. II/1/bb/aa).

c. Application to a piece of cloth covering the skin.

25 November. The skin was covered with a piece of cloth 6x3 cm. to which the mixture was applied and then ignited. After it had burned itself out in 57 seconds there remained of the piece of cloth only small carbonized remnants. After being wiped off with copper-

sulphate solution a yellowish, rather strong thickening of the skin appeared. The wound was treated with a 10-percent solution of cod-liver oil. A few days later little blisters appeared, which then dried up on 5 December. On 9 December, thickened, shred-like necroses began to peel off, and a dark red surface with rough, uneven granulations developed. The epithelization progressed only slowly. On 29 December the wound was not yet healed over.

3. With water.

19 November. The mixture was applied to a 2 sq. cm. of skin and ignited 30 seconds later. After 45 seconds the fire was extinguished with a damp cloth and the burned spot washed off with water. A burn of parchment-like, dry, greenish-brownish appearance appeared. The wound was treated with *echinacine* ointment. On 3 December it was clean, dry, and without necrosis. On 5 December the epithelization began, which then made rapid strides, so that on 23 December the wound, in contrast to the treatment with a 10-percent solution of cod-liver oil, was considerably smaller. On 29 December it was not yet healed over, but was only half as large as the wound treated with a 10-percent solution of cod-liver oil.

PARTIAL TRANSLATION OF MRUGOWSKY DOCUMENT 115
MRUGOWSKY DEFENSE EXHIBIT 108

EXTRACTS FROM THE AFFIDAVIT OF UDO VON WOYRSCH, 3 MAY 1947, CONCERNING EXPERIMENTS ON COMBATING INJURIES DUE TO PHOSPHORUS INCENDIARY BOMBS

* * * * * * *

From 20 April 1940 to 12 February 1947 I was Higher SS and Police Leader in Military District IV and main district leader [Oberabschnittsfuehrer] in Dresden. In this capacity I was responsible for measures counteracting the damage caused by the air war. I knew Dr. Hans Madaus, co-partner of the firm Dr. Madaus & Co., in Dresden. He told me that experiments on the combating of injuries caused by phosphorus incendiary bombs were being carried on in his laboratory with rabbits. On the occasion of an inspection of the whole pharmaceutical lay-out of the firm, I inspected, at his suggestion, in particular numerous hothouses and also the above-mentioned experiments. As far as I remember I inspected the experiments once again at a later date—at that time I called in Dr. Kirchert as medical expert, who was the physician of the Higher SS and Police Leader.

The experiments seemed to me to be so successful that I reported about them to Reich Physician SS and Police Dr. Grawitz; that is, I called his attention to these experiments on the combating of in-

juries caused by phosphorus incendiary bombs, which in my opinion were particularly successful.

* * * * * * *

I do not remember Dr. Ding, who, as I have learned only now, is supposed to have carried on experiments in Buchenwald with the preparation of the Madaus firm. It is possible that when visiting Dresden he paid a brief visit to me with Kirchert. But I do not recall such a visit.

I want to emphasize that the experiments at the Madaus firm made a big impression upon me, because I saw that the rabbits used in those experiments were treated very well. The content of the phosphorus incendiary bombs which was rubbed onto their skins and then wiped off with preparation R 17 did not seem to cause any kind of pain to the animals, because after they were returned to their cage, immediately after the experiments, they immediately ate again and did not show any signs of discomfort.

Professor Dr. Joachim Mrugowsky is personally known to me. He was not mentioned in any way nor did he participate in the matter of incendiary bombs. Since I know him, I would certainly remember if he had participated in any way at all or if his name had been mentioned.

Dr. Helmut Poppendick has also never been mentioned in any way in connection with this matter.

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EXTRACTS FROM THE TESTIMONY OF PROSECUTION WITNESS EUGEN KOGON*

DIRECT EXAMINATION

* * * * * * *

MR. MCHANEY: Witness, I had just asked you whether or not you know anything about experiments conducted at Buchenwald with the phosphorous content of incendiary bombs.

WITNESS KOGON: * * * As far as I can recall, I was told by Dr. Ding in the spring of 1944 that he had been given orders by Professor Dr. Mrugowsky in collaboration with the firm of Madaus & Co. at Dresden-Radebeul to carry out experiments on human beings with regard to the effect of a drug against the contents of phosphorous-caoutchouc incendiary bombs. I had the impression that the idea for this experiment had come from Dr. Ding and had been given to Dr. Mrugowsky by him, and then he had obtained permission to carry out this experiment. On the part of the firm Madaus, negotiations

*Complete testimony is recorded in mimeographed transcript, 6, 7, 8 Jan 1947, pp. 1150–1290.

were led by a certain Dr. Koch. He had a drug which he called R 17 and which was used by the German population after attacks in which incendiary bombs were dropped.

By way of Obersturmbannfuehrer Dr. Koch and the higher police leader of the Dresden sector, the contents of phosphorus incendiary bombs were sent to Buchenwald, and four experimental subjects from Block 46, who had survived other experiments, had this phosphorus liquid applied to their forearms. The whole mass was then ignited and was then treated in various manners. In the case of one experimental subject, water was used in order to wipe off the liquid, and in other cases a damp rag was applied, and in the last case R 17 was applied. Several experiments were carried out on these four subjects.

In one instance the drug R 17 was applied immediately after the mass had been ignited; in another instance, after approximately five minutes, and in yet another case, after thirty minutes. After the mass had burned the arm, serious burns developed which were observed for two weeks afterwards. The experiment was conducted by the Special Section 5 at Leipzig, and photographs were taken of the wounds. Previously experiments on animals had been carried out in Block 40 on rabbits. These experiments were conducted in the same manner, and the various results were also photographed, and the photographs were compared with each other. Then they were put into an album with exact descriptions and the results were sent to Berlin—two copies. One was sent to Professor Mrugowsky, and the other was sent to Oberfuehrer Poppendick, but I am not quite sure about that. I believe that Oberfuehrer Poppendick must surely have received a report on this matter because Dr. Ding intended to write an article about this in a German medical journal.

Q. Now, you have mentioned an album report. Did you see this report?

A. I personally made the report after having it dictated to me by Dr. Ding.

Q. I will ask you if the document which I will now have handed to you, and which is Document NO–579, is the report on these incendiary bomb experiments which you have described.

MR. MCHANEY: I will ask that the original of this document be passed up to the Tribunal.

I didn't hear any answer to the question.

A. Yes. It is a carbon copy of the report with the original photographs.

MR. MCHANEY: I offer Document NO–579 as Prosecution Exhibit 288, and I will ask that the original be passed up to the Tribunal for inspection. I will ask that the Tribunal turn particularly to page 15 and following of the exhibit itself. Your Honor, I think you would

find the pictures more easy to discern in the original document. Page 15 and following are pictures of burns on the arms of human beings. Witness, did you see any of the experimental subjects who were burned with this phosphorus?

WITNESS KOGON: I personally saw all the experimental subjects because this experiment was carried out in the private room of Dr. Ding in Block 50 and in the library of the Hygiene Institute in Block 50. The reason for this was that the experiment in Block 46 among the experimental subjects that were located there, and who were destined for other purposes, would have caused far too much excitement.

Q. Were these burns very severe?

A. As far as I can recall they were very severe in three out of the four cases.

Q. Did the experimental subjects suffer any pain?

A. Kapo Arthur Dietzsch had suggested that the subjects should be given an anesthetic as soon as they came into Block 50, so that violent scenes could be avoided, and in Block 50, which was completely different from Block 46, having persons handcuffed, as was the common practice in Block 46, was to be avoided. It was like that at least in the first experiment, but I only saw the subjects. I did not personally witness the experiments, and I saw the subjects before as well as afterwards. During the first experiment at least, the subjects were given an anesthetic, and after about half an hour they regained consciousness and complained of very severe pains. You could see that they were really suffering very badly. I must confess that I personally, after having looked at the photographs, almost became sick.

Q. Do you know whether the injuries which they received are permanent?

A. In the case of some of the wounds, it is completely impossible that they will ever become completely healed; very deep scars must have remained because the wounds were big and were as deep as two or two and a half centimeters.

Q. Do you know whether any of the experimental subjects died?

A. Four persons were returned to Block 46, and I do not know anything about the future fate which awaited them there. I especially do not know if they were used for further experiments.

Q. Do you know the nationality of the experimental persons used?

A. No. However, all four wore the green triangle to signify that they were habitual criminals, and they were Germans.

Q. And you state that the purpose of these experiments was to test certain chemical preparations of the Madaus Company in treating the burns.

A. Yes.

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EXTRACT FROM THE TESTIMONY OF DEFENDANT MRUGOWSKY*

DIRECT EXAMINATION

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DR. FLEMMING: Now, I come to the incendiary bomb experiments. Dr. Kogon during his testimony frequently spoke of an experiment by Dr. Ding with a phosphorus-caoutchouc incendiary bomb, and he said that you ordered this experiment.

DEFENDANT MRUGOWSKY: I did not know who ordered this experiment. I found out about it only from the report which was drawn up after the experiment had been terminated. This report has been put in evidence here as a document. From this it can be seen that animal experiments were also carried out. I assume that these were not performed in Block 46, but in Block 50, which was under my supervision. I went with the report to Grawitz and asked him if he knew any more about this matter. I asked him if I was correct in my assumption that some of the experiments took place in Block 50 and if so, to tell Dr. Ding in future to confine himself to his Block 46 in such matters, which was directly under Grawitz. Grawitz answered thereupon that it did not make any difference one way or the other, and I should not be so fussy. I also know that after a few weeks Ding was looking for this report and called me up and asked me if I had it. I no longer had it at that time as I had given it to Grawitz, and it was in his files where it belonged.

Q. Kogon also testified that the experimental subjects had suffered serious pain and had incurred wounds from 2 to 2.5 centimeters deep, which led to the formation of extensive scars. I show you now Document NO–579, Prosecution Exhibit 288 and ask you to comment on this document and Dr. Kogon's testimony?

(The document is handed to the witness.)

A. The first part of this document deals with the rabbit experiments. In the second part, however, there are pictures of experiments on human beings. These pictures show the place on the arm where the experiment was made. Kogon said that this burning was done in such a way that the mass of phosphorus was burning for quite awhile. The document, however, proves exactly the contrary. The length of time during which the matter was burning was not long, but the period between the time when the mixture was applied and the time it was ignited was long; that is possibly the reason for this misunderstanding. Moreover in the description of the individual cases, it can be seen that already on 29 December, in other words four days after the experiment, the burn was almost healed, or had greatly reduced in size. In one case there was still an open wound of 0.5 centimeter

*Complete testimony is recorded in mimeographed transcript, 27, 28, 31 March and 2, 3 April 1947, pp. 5000–5244, 5334–5464.

but there is no mention anywhere of any deeper wounds, but only of purely superficial epidermal wounds. There is constant mention of the fact that the wounds healed over nicely and in some cases the wound was completely healed four days after the experiments. Wounds 2½ centimeters deep, or large scars could not have occurred and that testimony of Kogon is false. In this case let me point out that he was not speaking from his own knowledge. During the first discussion of these incendiary bomb experiments, he said he had seen the experimental subjects, and then in the same interrogation he later says this was not the case. In other words, he is reporting what he has heard and not what he knows at first hand.

Q. I am submitting to the Tribunal Mrugowsky 56, and it will be Mrugowsky Exhibit 50. I should like to read from page two:

"Treatment of phosphorus burns with 'R 17.'

"The dropping of phosphorus incendiary bombs made it necessary to find an adequate method of treatment. As the copper-sulphate solution hitherto in use did not give satisfactory results, the firm of Dr. Madaus in Dresden looked for a different solvent and produced a liquid carbon tetrachloride which was called 'R 17.' The efficacy of R 17 had been proved by means of experiments on rabbits carried out by the firm of Dr. Madaus.

"After the completion of these rabbit tests, Dr. Madaus asked the Higher SS and Police Leader von Woyrsch, Dresden, to come and see the tests. As my emergency office was in the building of Gruppenfuehrer von Woyrsch, he asked me to accompany him to the firm of Madaus in my capacity as a doctor and to watch these tests. That was in the autumn of 1943. At the request of Gruppenfuehrer von Woyrsch and the firm of Madaus, I reported to the Reich Physician SS and Police the results achieved by the firm of Madaus in the treatment of phosphorus burns and suggested that the drug R 17 be made known to the air-raid precaution dispensaries. Grawitz promised to have another test made.

"Some time afterward he sent Dr. Ding to Dresden for this purpose in his capacity as health expert, and instructed me to make arrangements for Ding to see the results achieved there, by the firm of Madaus, with R 17. I arranged this. Ding came to Dresden and saw the above-mentioned tests in my presence, on the premises of the Madaus firm. Afterward he declared that, on the orders of the Reich Physician SS in Buchenwald, he would also test the efficacy of the drug on rabbits. He requested the firm of Madaus to put the drug R 17 at his disposal. Immediately after inspecting the firm of Madaus he left Dresden.

"I also know that Dr. Ding asked the office of the Higher SS and Police Leader to procure for him the filling of an English incendiary bomb, which as far as I know was done through the Commissioner

of the Police of Leipzig. Dr. Ding had the drug R 17 and the incendiary bomb collected.

"I also know that Ding made a report on his experiments. I know this because Dr. Ding asked my office in Dresden several times, in writing and by telephone, if they had this report, as he could not find it. It was supposed to be a report with photographs. I do not know if the report went through my office, as I was in Dresden only one day a week. At the time when Ding was looking for the report it was not in my office. I assume, therefore, that he sent it direct to the firm of Madaus, as they were interested in the results of his test.

"When, after a considerable time, I still had not heard from the Reich Physician whether the drug R 17 was to be made known to the air-raid precaution dispensaries, I asked the Reich Physician about it at a meeting. He then declared that the drug would not be introduced, as it only possessed phosphorus-dissolving properties, but did not directly contribute to the healing of the burns. However, a drug was in preparation elsewhere that combined both qualities and this would be introduced."

I submit further the last paragraph of Dr. Morgen's affidavit. (*Mrugowsky 23*, *Mrugowsky Ex. 26.*) Dr. Morgen says here:

"While I was making observations in Block 46 I paid repeated surprise visits in order to inspect the running of the Block. Once, when I paid a surprise visit to Block 46, examinations on the treatment of wounds caused by phosphorus incendiaries were being carried out.

"As I arrived a big strong prisoner came into the room laughing. On each of his two upper arms there were applied on a space about 1 centimeter wide and 5 centimeters long, some parts of the contents of a phosphorus incendiary bomb. These spots on both upper arms were treated with various ointments. During the discussion with Dr. Ding I was informed that the experimental persons volunteered for the experiment. They received the diet for sick persons, a packet of cigarettes, and for one month they did not have to work. In the case of the inmate whose treatment I witnessed by chance, I had the definite impression that he was a volunteer."

* * * * * * *

12. PHLEGMON EXPERIMENTS

a. Introduction

The prosecution introduced evidence calculated to show that inhumane acts and atrocities, as generally alleged in paragraph 6 of the indictment, were committed in the course of phlegmon experiments.

These experiments were not specifically described in the subparagraphs of paragraph 6 of the indictment which particularized 12 specific types of experimentation. On this charge the defendants Poppendick, Oberheuser, and Fischer were acquitted.

The prosecution's summation of the evidence on the phlegmon experiments is contained in its closing brief against the defendant Gebhardt. An extract from this brief is set forth below on pages 654 to 655. A corresponding summation of the evidence by the defense on these experiments has been selected from the final plea for defendant Gebhardt. It appears below on pages 655 to 657. This argumentation is followed by selections from the evidence on pages 657 to 669.

b. Selection from the Argumentation of the Prosecution

EXTRACT FROM THE CLOSING BRIEF AGAINST DEFENDANT GEBHARDT

* * * * * * *

Sepsis (Phlegmon) Experiments

Sepsis experiments were performed in the Dachau concentration camp beginning in the autumn of 1942. These experiments were carried out in order to test the effectiveness of biochemical treatment of sepsis and related diseases.

The witness Stoehr testified concerning these experiments. He stated that sepsis was artificially provoked by infecting with pus the concentration camp inmates who were used as subjects. (*Tr. pp. 578, 579.*) He knew of at least two series of experiments. In each of these series approximately half of the experimental inmates were treated by biochemical means and the other half with sulfanilamide The first series consisted of 20 German concentration camp inmates of whom seven died as a result. For the second series, 40 clergymen of various nationalities were selected and 12 died as a result of the experiments. (*Tr. pp. 581, 582.*) The experimental subjects did not volunteer. (*Tr. p. 590.*) See also the Review of Proceedings of the General Military Court in the case of the *United States* vs. *Weiss, et al.* (*NO–856, Pros. Ex. 125.*)

It is quite clear that the biochemical experiments performed in Dachau were complementary to the sulfanilamide experiments by Gebhardt in Ravensbrueck. This is shown by the fact that in September 1942, while the sulfanilamide experiments were still in progress, Gebhardt received a copy of a report on the biochemical experiments in Dachau from Grawitz. (*NO–409, Pros. Ex. 249.*) This report shows on its face that approximately eight cases of sepsis were artificially provoked. The report dealt with the results obtained from experi-

ments carried out on 40 concentration camp inmates in treating sepsis, phlegmon, furuncles, abcesses, and nephrosis, among others.

Ten of the experimental subjects died. The report also covered three sepsis cases in Auschwitz, all of whom died. It concluded with the statement that the experiments were being continued.

The case history of one of the experimental subjects artificially infected with pus in November 1942 shows the horrible pain which these victims suffered. (*NO–994, Pros. Ex. 251.*)

That the defendants Gebhardt and Fischer had more than a casual connection with the sepsis experiments in Dachau is proved by a handwritten notation by Gebhardt on a letter written by Grawitz to Himmler on 7 September 1942, attaching copies of the preliminary report by Gebhardt on his sulfanilamide experiments, together with the report on the sepsis experiments in Dachau. (*NO–2734, Pros. Ex. 473.*) This note reads as follows:

"16 September 1942. Settled, after conversation with Reich Leader SS. Obersturmfuehrer F. Fischer has been given new instructions for Ravensbrueck *and Dachau.* Gebhardt." [Emphasis supplied.]

c. Selection from the Argumentation of the Defense

*EXTRACT FROM THE FINAL PLEA FOR DEFENDANT GEBHARDT**

* * * * * * *

Phlegmon Experiments

In the course of the hearing of the evidence, the prosecution submitted documents and interrogated witnesses with the intention of proving that apart from other medical experiments, experiments were also carried out on the treatment of phlegmon. In the indictment itself these experiments, which were carried out at Dachau, are not mentioned. In view of Article IV of the Ordinance of Military Government for Germany, which expressly states that the indictment should list the counts in sufficient detail, it must be assumed that in this case a properly made charge does not exist.

As far as the participation of the defendant Gebhardt is concerned, the documents submitted by the prosecution show by themselves that he had nothing to do with the execution of these experiments. It was only later that he learned of the experiments carried out at Dachau, as unequivocally proved by the letter of Reich Physician SS Dr. Grawitz to Reich Leader SS Himmler of 29 August 1942, referring to the biochemical treatment of sepsis, which was submitted by the prosecu-

*Final plea is recorded in mimeographed transcript, 15 July 1947, pp. 10874–10910.

tion as NO–409, Prosecution Exhibit 249. The defendant Gebhardt learned of these experiments on 3 September 1942, on the occasion of the visit of Reich Physician SS Dr. Grawitz to Ravensbrueck in connection with the sulfanilamide experiments in this camp. The defendant Gebhardt wrote on the margin of this document the remark "seen and read". This remark alone shows that he could only have learned subsequently of these experiments, and especially that he did not approve of them. If it had been the contrary, he certainly would have made some other notation on the document, as for instance, "agreed", or else he would have shown his approval in a similar way. On the witness stand the defendant Gebhardt explained in detail to the Tribunal what his opinion of these experiments was. These experiments demonstrate unequivocally that they were deliberately initiated in ignorance of, and in contradiction to, the recognized rules of orthodox medicine. As also demonstrated by the evidence the Reich Leader SS Himmler did not conform to orthodox medicine but wanted to promote independently one patent solution out of a variety of suggestions and opinions. Nearest to his conception, beside his inclination towards theories of biological selection, were biochemistry, homeopathy, and mesmerism, i. e., those schools of medicine which, contrary to the theories of orthodox medicine do not combat certain symptoms of a disease but by means of the so-called stimulation theory want to bring about a change of the general physical disposition. The defendant Gebhardt, when on the witness stand, clearly explained this attitude of Himmler, which among other things resulted in rejection of any criticism by orthodox medicine, relying exclusively on his biochemical experts.

The evidence, however, has further shown that after having learned of the letter of Reich Physician SS Grawitz of 29 August 1942 (*NO–409, Pros. Ex 249*) and with the object of convincing Himmler of the futility of these experiments, the defendant Gebhardt himself performed experiments on patients with these biochemical remedies in his clinic at Hohenlychen, and that he succeeded in convincing Himmler of the inefficacy of these remedies. In this connection I refer to the statements of the defendant Gebhardt himself and to the affidavits of Dr. Jaedicke and Dr. Brunner, which I submitted to the Tribunal.

When examining the legal conclusions which can be drawn from the facts presented above, we may arrive at the following results:

The defendant Gebhardt did not commit any act which had any causative connection with these experiments. He learned about these experiments only after the event, and then he did everything in his power to prevent further experiments of this kind. The prosecution

was not able to produce evidence that such experiments had been carried out at all after 3 September 1942. All this proves that in view of the missing causal connection and absence of premeditation there cannot be any question of criminal action on the part of the defendant Gebhardt. It is acknowledged in the criminal law of all civilized nations that knowledge acquired after events is not sufficient to prove the existence of a criminal action.

* * * * * * *

d. Evidence

Prosecution Documents

Doc. No.	Pros. Ex. No.	Description of Document	Page
NO–409	249	Report from Grawitz to Himmler, 29 August 1942, concerning experiments with biochemical remedies conducted at the Dachau and Auschwitz concentration camps.	657
NO–2734	473	Extracts of letter from Grawitz to Himmler, 7 September 1942, and report on gas gangrene experiments.	660

Testimony

Extract from the testimony of prosecution witness Heinrich W. Stoehr--- 664
Extract from the testimony of defendant Gebhardt---------- 667

TRANSLATION OF DOCUMENT NO–409 PROSECUTION EXHIBIT 249

REPORT FROM GRAWITZ TO HIMMLER, 29 AUGUST 1942, CONCERNING EXPERIMENTS WITH BIOCHEMICAL REMEDIES CONDUCTED AT THE DACHAU AND AUSCHWITZ CONCENTRATION CAMPS

The Reich Leader SS
Reich Physician SS and Police
Telephone: 924249.924351.924373.
924406
Az.: 738/IV/42

Berlin W 15, 29 August 1942
Knesebeckstr. 50/51
[Stamp]
Personal Staff
Reich Leader SS
G 213

Subject: Biochemical treatment of sepsis, etc., with biochemical remedies.

To the Reich Leader SS H. Himmler
Berlin SW 11 Prinz Albrechtstrasse 8

Reich Leader,

With regard to previous results of biochemical treatment of sepsis and other cases of illness, I beg to submit the following provisional report.

1. The following *40 cases* were treated with biochemical remedies in the SS hospital *Dachau* in the time mentioned in the report. Besides septic processes, such diseases were treated where a decisive change for the better should be achieved by means of biochemistry.

Phlegmonous-purulent processes	17
Sepsis	8
Furuncles and abscesses	2
Infected operational incisions	1
Malaria	5
Pleural empyema	3
Septic endocarditis	1
Nephrosis	1
Chronic sciatica	1
Gall stones	1

According to the indications of the biochemistry applied to the different cases, we used the following remedies:

Potassium phosphoricum	D 6
Ferrum phosphoricum	D 6 and D 12
Silicea	D 6
Sodium muraticum	D 6
Calcium phosphoricum	D 6
Sodium sulfuricum	D 6
Magnesium phosphoricum	D 6
Sodium phosphoricum	D 6
Calcium fluoratum	D 6

The cases of sepsis were mostly artificially provoked.

Up to now we found that the unfavorable course of the severe cases could scarcely be stopped by means of biochemical remedies. All sepsis cases died. The malaria cases were not influenced by it.

The cases of extended purulent processes, with development of abscesses, the pleuralempyeata, the septic endocarditis, the nephrosis, the chronic sciatica and the gall stones showed no definite influence from biochemical treatment. Insofar as they were conducted with positive results, they did not show a different result from the ones where, according to medical experience, patients were restricted to staying in bed without receiving any special treatment.

The impression of a favorable effect on morbid cases of sickness by biochemical means proved to be satisfactory in five cases only, four of which were comparatively slight. The fifth case involved a 17-day-old child with severe furunculosis. In this case an improvement set in only a few days after treatment had been applied. However, an

error occurred in the experimental procedure, for at the beginning of the treatment a sulfanilamide preparation was used.

The strong formation of pus, clearly noticeable in a few cases, is perhaps due to the biochemical remedies applied. The doses of sugar, which were frequently given and mainly consisted of pure milk sugar in the form of biochemical tablets, probably promoted the effect.

Experiments for orientation are to be made. In a case of a joint mould the antiseptic potassium phosphoricum D 6 was given as a prophylactic because the incision of the operation was greatly endangered by infection. In spite of that, the temperature rose to 39° on the following day. Consequently, the biochemical treatment could not prevent appearance or breaking-out of an infection, although potassium phosphoricum D 6 was given immediately and intensively.

It is also to be noted that very soon all the seriously ill cases flatly refused to take biochemical tablets, because it meant torture to them to take the tablets every 5 minutes, even at night.

Finally it must be said that from a total number of 40 cases there are 1 positive case and 4 positive cases with certain reservations, against 35 failures, of which 10 ended fatally.

The experiments in Dachau are being continued.

Besides the hitherto existing program, special attention is directed to research of twin cases in similar conditions, of which one will receive an allopathical, the second a biochemical treatment.

[Marginal note.] Seen at Ravensbrueck 3–9–1942, [Signature] K. Gebhardt

2. In the concentration camp of Auschwitz, three typical cases of sepsis, which developed from phlegmons, were treated—according to prescription—with potassium phosphoricum D 4. In none of these cases a therapeutical influence on the progress of the disease could be observed. All 3 cases ended fatally.

The experiments are being continued.

[Signature] Grawitz

TRANSLATION OF DOCUMENT NO–2734
PROSECUTION EXHIBIT 473

EXTRACTS OF LETTER FROM GRAWITZ TO HIMMLER, 7 SEPTEMBER 1942, AND REPORT ON GAS GANGRENE EXPERIMENTS

The Reich Leader SS
Reichsarzt SS and Police
Telephone: 924249. 924351.
924373. 924406
File No. 748/IV/42

Berlin, W 15, 7 September 1942
Knesebeckstrasse 50/51
[Rubber stamp]
(Personal Staff Reich Leader SS Archives)
(File No. AR/31/13)
[Signature] GEBHARDT

Subject: 1. *Experiments by SS Brigadefuehrer Gebhardt on the Combating of Gas Gangrene.*
2. Experiments on the Treatment of Sepsis by Biochemistry.

Enclosures: –2–X
To the Reich Leader SS H. Himmler
Berlin

Reich Leader:

Attached please find a provisional report by SS Brigadefuehrer Professor Dr. Gebhardt on his clinical-surgical experiments at Ravensbrueck concentration camp, furthermore a concluding provisional report on experiments on the biochemical treatment of sepsis as performed at Dauchau concentration camp.

[Signature] GRAWITZ

[Rubber stamp]

Personal Staff RF–SS Enclosures
In: 9 September 1942
Journal No. AR/40/7/42 2
? RF

[Handwritten]
16 September 1942
Settled, after conversation with RF–SS. Obersturmfuehrer F. Fischer has been given new instructions for Ravensbrueck and Dachau.
[Signature] GEBHARDT

Copy!

[Rubber stamp]
(Personal Staff Reich Leader SS Archives)
(File No. AR/31/13)

Professor Dr. K. Gebhardt
SS Brigadefuehrer and Brigadier General of the Waffen SS
To the Reichsarzt SS Gruppenfuehrer Grawitz

Provisional Report on Clinical Experiments at Ravensbrueck Concentration Camp for Women

By order of the Reich Leader SS, I started on 20 July 1942 at Ravensbrueck concentration camp for women on a series of clinical experiments with the aim of analyzing the sickness known as gas gangrene, which does not take a uniform course, and of testing the efficacy of the known therapeutic medicaments.

In addition, the simple infections of injuries which occur as symptoms of war surgery had also to be tested, and a new chemotherapeutic treatment apart from the known surgical measures had to be tried out.

* * * * * * *

I appointed SS Obersturmfuehrer Dr. Fischer as co-worker. SS Oberfuehrer Dr. Blumenrent put the complete surgical instruments and medicaments at my disposal. SS Standartenfuehrer Mrugowsky put his laboratory and co-workers at my disposal.

SS Obersturmbannfuehrer Dr. Lolling, Chief of Office IIID at Oranienburg, assigned as co-workers: SS Obersturmfuehrer Dr. Schiedlausky, garrison-physician at Ravensbrueck concentration camp for women, and Fraeulein Dr. Oberheuser, camp physician at Ravensbrueck concentration camp for women.

* * * * * * *

The question was to define firstly, by way of a preliminary experiment, the mode of infection, making use of the known results from experiments upon animals. In these questions I was advised by SS leaders of the Hygienic Institute of the Waffen SS who had taken over the culture and dosage of the inoculation material.

The point was to implant the lymph cultures on the damaged muscle tissue, to isolate the latter from atmospheric and humoral oxygen supply, and to subject it to internal tissue pressure. The inoculation procedure was as follows: a longitudinal cut of 10 centimeters over the musculus peroneus longus; after incision into the fascia the muscle was tied up with the forceps in an area the size of a five mark piece; an anaemic peripheral zone was created by injection of 3 cc. adrenalin and in the area of the damaged muscle the inoculation material (a gauze strip saturated with bacterii) was imbedded under the fascia, subcutaneous adipose tissue, and skin sutured in layers.

In the first series of experiments (preliminary experiments), three selected prisoners of as much the same constitution as possible were used. They were inoculated as follows:

The first: Aerobic mixculture (staphylococci, streptococci, bact. comm. try. a 5 Mil).

The second: Para Oedema Malignum, sarc, flav. 4.5 mg.

The third: Bact. Fraenkel and earth. Stimulus 4.5 mg.

The experiment was concluded after 10 days. After an initial local swelling in the inoculation area and an increase in temperature up to 39 degrees, the inflammation died down, the wound having broken open on the fourth day. There was no danger to the life of any of the prisoners. We succeeded in producing locally the symptoms of gas gangrene in the third prisoner. After 20 days the prisoners were released again to their working blocks.

The course of the preliminary series of experiments had proved that we were not successful in producing the same symptoms as of clinical gas gangrene. In a conference with the Hygiene Institute of the Waffen SS the nature of the infection and the conditions for the germs were not considered to be equivalent to the natural conditions in war surgery and consequently the experimental arrangements were varied.

Bacterium coli were added to the acrobe culture and the germ number was increased to 20 millions. Bacterium coli and dextrose were added to the mixture of para oedema malignum.

Bacterium coli were added to the gas gangrene culture by Fraenkel, and while doubling the number of germs, earth was administered to produce a similar environment. Six selected youthful prisoners were inoculated two by two with the above mixture of bacteria in the subsequent first experimental series. One of them remained untreated for control purposes, the other one was powdered with cataxyn wound powder immediately after the inoculation. The first change of dressing took place 3 days afterwards, the following each second day. Those who remained without treatment were covered with sterile layers, those treated with cataxyn (indicated in the graphs as TK–cases) were continuously powdered with cataxyn. The aerobe cultures in both cases showed local abscesses which could be easily treated surgically.

The para oedema malignum inoculation produced a local inflammation with central suppuration, small formation of necrosis in the depth and moderate emphysem of the skin. The regional lymphatic glands were not affected.

Those prisoners who were infected with Fraenkel's gas gangrene, and who immediately received tetanus-antitoxin for the administered earth, produced by far the strongest inflammatory reaction: abscesses with deep necrosis in the area of the inoculation, emphysem of the skin with formation of blisters, and beginning necrosis collateral oedema extending from above the joint of the knee to the lower third of the thigh as far as the back of the foot. The inflammatory appearances receded considerably after the opening of the injury on the first dressing day. The effect of the opening of the wound was particularly

significant in the TK–cases which started inflammations in spite of simultaneous therapy. Greater pressure of the tissue due to oxygen, liberated by the medicament, was considered to be the reason for the accentuated local inflammation.

Comparing nontreated cases with the TK–cases, the final critical observation shows:

1. Immediate therapy does not prevent the occurrence either of an ordinary suppuration or of a "gangrene".

2. The cleaning of the wound is faster in TK–cases than in control cases.

3. The formation of fresh wound granulations occurs earlier with cataxyn.

4. The part played by the paranchymatic organs (liver, kidneys) is less important under the influence of cataxyn.

Since in this experiment too definite gangrene could be produced clinically speaking, yet its picture did not in any way correspond to the one known in war surgery; after further consultation with the collaborators in the Hygiene Institute of the Waffen SS, the vaccine was changed by adding wood shavings. It is known in bacteriological literature that the virulence of the bacteria in the experimental animal can thereby be considerably increased.

The triple distribution was reserved for the second series of experiments now in progress. Three prisoners in each group were inoculated. One person was left without treatment as control, the second was treated with cataxyn as before, and with the third the Marfanil-prontalbin powder manufactured by I. G. Farben was employed, since this was strongly recommended by the Army Medical Inspectorate. The powder was applied according to the Schmick procedure. This experiment is still in progress.

Even if as yet nothing definite can be said about this series of experiments it can already be stated that—

1. there is no decisive difference between cases which are treated and those which are not treated,

2. that opening the wound, in addition to immobilization, has proved the most effective means of controlling the inflammation,

3. the effect of the MP powder seems at least doubtful, since in the III TM case the most definite gangrene observed up to now has developed.

We are now investigating the problem as to why the gangrene in the present case did not fully develop. Therefore, the injuring of the tissue and the exclusion of a muscle from the circulation of the blood were undertaken during a separate operating session, and the large-scale necrosis resulting therefrom was to be inoculated with bacteria strain which had already had one human passage. For it is only when the really definite clinical picture of the gangrene has appeared

that conclusions may be drawn on therapy with chemotherapeutics in connection with surgical operations.

[Signature] GEBHARDT
SS Brigadefuehrer

Copy certified correct
Berlin, 7 September 1942
[Signature] POPPENDICK
SS Obersturmbannfuehrer

* * * * * * *

EXTRACT FROM THE TESTIMONY OF PROSECUTION WITNESS HEINRICH W. STOEHR*

DIRECT EXAMINATION

* * * * * * *

Mr. HARDY: Witness, did you ever hear of the sepsis or phlegmon experiments at the Dachau concentration camp?

WITNESS STOEHR: Yes, these experiments were conducted at my station.

Q. How did you gain your knowledge of these phlegmon experiments? Were you an observer? Were you an assisting nurse, or by what way did you gain the knowledge you have of these phlegmon experiments?

A. I was the nurse at that station. One day, I think it was in the late summer and fall of 1943, a certain Sturmbannfuehrer Schuetz came to me, with a Standartenfuehrer by the name of Laue or Lauer—I am not quite sure which—and inspected the surgical department. He was shown a number of patients. We had to take their bandages off, and he examined their wounds—or rather, he just looked at them very superficially. After that, the chief physician of the concentration camp Dachau, Dr. Walda, was called in, and he received the order to see to it that the patients received biochemical treatment for some time.

Q. Witness, will you kindly explain to the Tribunal in what manner these phlegmon experiments were conducted; that is, the details of the experiments? What did they do to the victim?

A. Mainly, phlegmon was treated. It was very general in the camp. That is to say, phlegmon was the typical camp disease. The biochemical treatment was carried out in the following manner:

Three similar cases were observed. One of these cases was given allopathic treatment; another biochemical, and the third one received only ordinary surgical treatment. That is, the third one received no drugs whatsoever, and the wound was treated in an ordinary way

*Complete testimony is recorded in mimeographed transcript, 17 December 1946, pp. 574–594.

with bandages and so on. These were the directives of the physicians who were there. We saw on many occasions that the patient was cured much faster who received no drugs or injections.

Experiments of that kind were conducted for many weeks, and if I may as a layman make a judgment, I must say that the physicians, according to my observations, were not satisfied with these experiments.

In addition, I have to emphasize that not only wounds were treated according to these methods, but internal diseases, too. They tried to find out whether biochemical treatment was suitable for treating the thirst for water, which was so frequent in the camp. We saw that the biochemical drugs had no influence whatsoever as to the cause of this illness.

I emphasize that I am speaking as a layman and that all these are my observations.

During the fall, this Sturmbannfuehrer Dr. Schuetz told the camp doctor, who was named Babo, to infect a number of people with pus. We nurses were told nothing about that, and we did not know the purpose. These experiments were conducted on a group of men, and they extended over a period of approximately six to seven weeks.

First a group of Germans were infected with pus. We nurses had no idea of the cause of the illness, and we gave the patients the drugs that were ordered by the physicians. I emphasize again that half of these people received allopathic and the other half biochemical treatment. As nurses, we could observe the following facts:

The patients who received allopathic treatment were cured much quicker, that is, if they had any power of resistance to their illness, but the patients who had to take those pathological tablets, if I remember correctly, died with the exception of one person. There were approximately 20 persons who, at that time, were infected. The second group consisted of 40 clergymen of all nationalities and brothers of religious fraternities. These patients were selected from the block where the clergymen were housed. They were selected by the Chief Physician Dr. Walda and were sent to the operational room of the concentration camp Dachau. They were operated on by Dr. Schuetz and Dr. Kieselwetter [Kieselwecker (?)] I think that was his name—and these experiments were conducted on them. A number of nurses, and also the personnel of the operating room, and I myself, saw how the injections were made. We were standing in the anteroom of the operating room.

Q. Witness, will you explain to the Tribunal what the word "phlegmon" means?

A. Phlegmon, as far as a layman can answer that question—means an inflammation of the tissues, and in the camp of Dachau phlegmons were very numerous because the people there were mostly sent to the

hospital too late. Typical camp phlegmons, as far as I know, are caused by germs. Persons got phlegmons who suffered from lack of water.

Q. Witness, did you say that inmates were used for experiments in which they were injected with pus?

A. Yes.

Q. Did you see these injections of pus being administered?

A. Yes.

Q. How were the inmates to be used for these experiments selected?

A. I didn't understand your question.

Q. In what manner did they select the inmates to be used for these experiments which dealt with the injection of pus? In other words, how were they selected? What type of prisoners? What were their nationalities, etc.?

A. They were 40 persons coming from the so-called clergymen block.

Q. Were these inmates used for these experiments with injection of pus healthy inmates?

A. Completely healthy and strong men.

Q. You have told us that they had one group, the first group, of ten Germans. How many died in that group?

A. I believe that the first group consisted of ten people of whom, as far as I remember, seven died.

Q. Now, you have told us of a second group of 40 clergymen. How many died in that group?

A. I have seen a list of the survivors, and according to that list, 12 clergymen, or rather brothers, must have died.

Q. Were any prisoners of war used in these experiments?

A. I don't know whether they were prisoners of war or not. We could not tell the difference in the camp of Dachau, whether they were prisoners of war or not; at least I could not.

Q. Were the victims used in these experiments treated by medical doctors after they had been injected with pus?

A. The operation was done by physicians.

Q. Well, after they had been infected with pus what kind of treatment was given to them?

A. After the injection, Sturmbannfuehrer Schuetz gave instructions to the nurses that one-half of them should receive allopathic and the other half biological treatment. I emphasize that the group which received allopathic treatment had special drugs, the so-called sulfanilamide drugs. We had the impression that the physicians wanted to prove that the biological drugs were not suitable to cure such a severe disease.

Q. Then you say, Witness, that 50 percent were treated with sulfanilamide and the other 50 percent with biological medicants?

A. Yes.

Q. Now, after these injections with pus, did abscesses develop on the inmate?

A. The greater part of those who were treated biologically, or rather, all of them, developed abscesses and very deep abscesses. Some of the persons who received allopathic and prophylactic treatment with sulfanilamide had no abscesses.

Q. Did the inmates who endured this treatment suffer pain?

A. Yes.

Q. Severe pain?

A. As far as I know, the pain was very severe.

* * * * * * *

EXTRACT FROM THE TESTIMONY OF DEFENDANT GEBHARDT*

DIRECT EXAMINATION

* * * * * * *

DR. SEIDL: The next document which I intend to submit to the witness is NO–409 which has been submitted by the prosecution as Exhibit 249. It is a letter from Reich Physician SS Dr. Grawitz to the Reich Leader SS Himmler dated 29 August 1942. It refers to the biochemical treatment of sepsis. This document came to your knowledge, didn't it? And this is shown by a comment you wrote: "Seen at Ravensbrueck on 3 September 1942. (Signed) KARL GEBHARDT." Did you know beforehand about the performance of these experiments and did you agree with them?

DEFENDANT GEBHARDT: I did not have any previous knowledge of these experiments, and with regard to this document may I state somewhat more in detail what it shows? This is a letter to Himmler, dated the end of August, and signed by Grawitz. It was never mentioned that I was to receive this letter or that this letter was to be routed through me. It does not have any note from me to the effect that I countersigned it, or was in agreement with it, in this form. It was also not discussed in Berlin or Hohenlychen or in the headquarters, but in Ravensbrueck, and, in particular, on 3 September when this discussion took place between Grawitz and me, because of the second group of our sulfanilamide experiments. Grawitz, who at that time came in order to show us that he was not in agreement, as far as I can recall, brought this letter and this description along from Dachau. We then discussed it in detail, because on my part there were many reasons for raising the sharpest protest against it. And, may I point out how much can be seen from this document about

*Complete testimony is recorded in mimeographed transcript, 4, 5, 6, 7, 10 March 1947, pp. 3931–4256.

how Grawitz planned to publish experiments or to describe them, in contrast to my procedure at the time. Under point (1) it states, "SS Hospital, Dachau" and it actually looks in general as though this were a hospital report. And most of the case histories also speak in favor of that, too. For example, the reference on page 3 to a joint plastic, certainly is a big operation which can only be performed in a hospital. On the following page there is "artificially induced sepsis." On the second page, "the cases of sepsis were mainly artificially induced." Then on the other side it is stated that in the fatalities there is no mention of the 8 cases of sepsis that were artificially induced, but of 10. I proved to Grawitz, especially on this page, that the description he wanted to make of a camouflaged mixture of experiments and clinical results might later on be read by somebody superficially, and he would come to the word "artificially induced" and would not be able to decide. Then there was a fundamental point with regard to all persons concerned. This was the impracticability of performing an experiment in this establishment. Then on page 3 it states that the drugs were to be taken every five minutes, even at night. At the time I didn't even think of giving the report to Grawitz, after I had found out about it by chance. I wrote "read" in the margin and drew a logical conclusion with regard to Himmler and Grawitz. In this connection I not only concluded Grawitz' influence on our experiments, but I also asked Himmler how these biochemical experiments were brought about. I request permission of the Tribunal to permit me here to describe what Himmler thought with regard to such experiments, and to show, therefore, how impossible it was in certain cases, in spite of obtaining knowledge, to effect any change. For a person who has studied school medicine it is impossible to believe that through the homeopathic administration of sulphur and phosphorus, surgical case histories, as well as internal case histories, and metabolistic diseases can be influenced. However, in medicine one can, of course, take a completely different point of view, and that is the basic conception of biochemistry up to homeopathy, to which Himmler completely adhered. And here in two sentences we have described how all the elements which appear in nature also have traces in the human body. Now, if one small trace of an element is lacking, then the human being is susceptible to and suffering from some disease or other. The therapy and method of treatment by the biochemist is the exact contrast of medicine as practiced by a person who has studied it at school. They make test experiments on human beings and discover what element is lacking in that human being, and no matter from what disease he is suffering, the patient is treated with minimum doses of the element which he lacks. Never in the world has it been possible for a typical

school practitioner and a biochemist to agree, because they want to treat the human being completely in contrast to each other. From this example you can see now that when I went to Himmler and said that it was madness for not only an experiment to be performed on out-patients, but that also simultaneously ten or twelve different cases should be treated with the same medicine, when I told Himmler this, he said that he had one of the most experienced biochemists, and a layman, Herr Laue with him, and that he was absolutely convinced that this method of treatment was correct. Himmler always attempted to discover old-fashioned popular remedies. In spite of my objection and in spite of my proof that my own surgical patients would suffer from it, these experiments were performed until I succeeded in bringing this Dr. Laue and Dr. Kieselwecker from Marburg (who enjoyed Himmler's complete confidence on this question) to Hohenlychen. There we performed a similar experiment together on my patients in order to show that this method of treatment was impossible. But even in this way I was not able to achieve my purpose with Himmler, because afterwards it was said we had not applied the drugs properly, and so on. Therefore, one can conclude from this that it was not the case that Himmler adhered to one certain medical concept, and if one accidentally heard of an experiment, one could convince him. Himmler maintained a hostile attitude toward school medicine, and from nature cures to biochemistry he was accessible to every thought, and when Laue convinced him of the fact that this drug was of decisive importance, then the experiment was performed. May I state in this connection, that the knowledge of this document had the following three results with me: that Grawitz, who was ready to make compromises as is shown here, did not allow anyone to tell him anything at all about the sulfanilamide question; that I gave Himmler clear knowledge of the false idea without being able to convince him because of his favorable attitude toward biochemistry; and that the experiment would perhaps be discontinued, mainly on account of subsequent examinations at Hohenlychen. I shall give evidence of this as soon as I receive the appropriate testimony of witnesses.

* * * * * * *

13. POLYGAL EXPERIMENTS

a. Introduction

The prosecution introduced evidence calculated to show that inhumane acts and atrocities, as generally alleged in paragraph 6 of the indictment, were committed in the course of polygal experiments. These experiments were not specifically described in the subpara-

graphs of paragraph 6 of the indictment which particularized 12 specific types of experimentation. On this charge the defendants Handloser, Blome, and Poppendick were acquitted and only the defendant Sievers was convicted.

The prosecution's summation of the evidence on the polygal experiments is contained in its closing brief against the defendant Blome. An extract from this brief is set forth below on pages 670 to 672. A corresponding summation of the evidence by the defense on these experiments has been selected from the closing brief for the defendand Blome. It appears below on pages 672 to 675. This argumentation is followed by selections from the evidence on pages 675 to 683.

b. Selection from the Argumentation of the Prosecution

EXTRACT FROM THE CLOSING BRIEF AGAINST DEFENDANT BLOME

* * * * * * *

In order to test the effectiveness of a blood coagulant "polygal," Rascher carried out experiments in which inmates of the Dachau concentration camp were shot. Rascher's uncle, in his affidavit, describes the murderous experiments which were carried out by his nephew. In August 1943, he visited Rascher in Dachau and, while Rascher was away from his office, he saw a report which he describes as follows:

> "It refers to a report about the shooting (execution) of four people for the purpose of experimenting with the hemostatic preparation 'Polygal 10.' As far as I remember they were a Russian Commissar and a cretin, I do not remember who the other two were. The Russian was shot in the right shoulder from above by an SS man who stood on a chair. The bullet emerged near the spleen. It was described how the Russian twitched convulsively, then sat down on a chair and died after about 20 minutes. In the dissection protocol the rupture of the pulmonary vessels and the aorta was described. It was further described that the ruptures were tamponed by hard blood clots. That could have been the only explanation for the comparatively long span of life after the shot." (*NO–1424, Pros. Ex. 462.*)

This evidence is corroborated by the testimony of the witness Stoehr (*Tr. p. 587*) and the affidavit of Pohl (*NO–065, Pros. Ex. 221*). Even the defendant Gebhardt admitted, during his testimony, that he knew that Rascher had carried out blood coagulation experiments on concentration camp inmates who had been shot for the purpose. (*Tr. pp. 4240–1.*)

The evidence proves that Blome collaborated with Rascher in the polygal research. This collaboration began at least as early as the

middle of 1943 in connection with cancer research. (*NO–473, Pros. Ex. 237; see also NO–538, Pros. Ex. 122, entries for 18 February, 7 April, 14 April, and 26 June 1943.*) The defendant Sievers stated in his affidavit that: "Blome also had full knowledge of the blood coagulation experiments at Dachau. He received reports from Rascher and should have a complete knowledge of these matters." (*NO–473, Pros. Ex. 237.*) Blome admitted that Rascher had been commissioned by Himmler to work with him in the field of blood coagulation. (*Tr. p. 4642.*) One of the collaborators of Rascher in the polygal research was an inmate of the Dachau concentration camp by the name of Robert Feix. By letter of 15 September 1943, Rascher requested Sievers to approach Blome, so that the latter might arrange for the release of Feix and for his reinstatement in his former category as half-Aryan. Rascher stated in his letter that "Blome has given me great hopes in this respect." (*NO–611, Pros. Ex. 239.*) This proves that Blome was already collaborating with Rascher on polygal research in the summer of 1943. Obviously, Blome would not have put himself out to assist in this work without knowing precisely what had been done to test polygal.

In the latter part of 1943, Rascher and Dr. Haferkamp wrote a paper on polygal. This paper draws a clear distinction between *experiments* on human beings to test the effect of polygal and *clinical tests.* It states that: "Before we tried the clinical use of the drug and had it probed, it was tested on *human beings* by thorough experiments as to its influence on the period of clotting and bleeding." Curves were included to show the reaction of polygal on clotting and bleeding. Later on, the paper discusses clinical observations during operations. (*NO–438, Pros. Ex. 240.*) The experiments mentioned in this paper obviously are the ones during which inmates were shot. They were not so described in the paper because it was written for publication. Blome testified that the only experiments he knew about were ones where one cubic centimeter of blood was withdrawn to see how fast it would coagulate in a test tube. (*Tr. p. 4643.*) Such tests cannot be described as experiments. It is impossible to conceive of Rascher's testing a blood coagulant to be used on soldiers wounded on the battlefield in such a manner. And this was better known to Blome at the time than it is now to the Tribunal. He knew that Rascher had conducted the freezing experiments with resultant loss of life. He had been informed about the Buchenwald typhus experiments. (*Tr. p. 4640.*) Moreover, this devious explanation of Blome does not cover experiments to test the effect of polygal on bleeding; to test blood in a test tube covers only coagulation reaction, not bleeding reaction. So he had to add to the implausible by saying that Rascher once told him that he or another doctor had rubbed the upper thigh of a person under anesthetic until it became bloody and then tested the efficacy

of polygal. But Blome said, "I didn't take this statement of his seriously." (*Tr. p. 4635.*) The thing which cannot be taken seriously is Blome's display of ignorance about experiments in which the documents prove he had a direct personal interest.

Blome approved the publication of the paper mentioned above in the Munich Medical Weekly [Muenchener Medizinische Wochenschrift]. (*Tr. p. 4639; NO–616, Pros. Ex. 244.*) Both Grawitz and Pohl raised objections to the publication of the article because they had not been consulted and because Dachau 3 K and human experimental subjects were mentioned. (*NO–614, Pros. Ex. 245; NO–615, Pros. Ex. 246.*) Both these men knew of the murderous experiments carried out by Rascher to test polygal. Gebhardt knew. Yet Blome asks the Tribunal to assume that he was too naive to have known; that he didn't even believe Rascher when he was told that he had deliberately rubbed the hide off of an inmate's leg to test polygal.

On 23 February 1944 Rascher received a research assignment on polygal from the Reich Research Council. (*NO–656, Pros. Ex. 247.*) *Blome admitted that he issued this assignment.* (*Tr. p. 4634.*) Siever's diary reveals that on 1 February 1944, polygal production by Rascher was listed as a war economy industry by the Reich Research Council. On 22 February Sievers had a conference with Rascher in which supply questions for the production of this drug, *experiments of Blome*, and the polygal report for the defendant Gebhardt were discussed. On 24 February Sievers had a telephone conversation with Blome in which Blome informed him that Himmler had issued an order concerning Blome's work in Dachau in collaboration with Rascher. (*3546–PS, Pros. Ex. 123.*) Blome admitted that Himmler requested him to cooperate with Rascher on polygal research. (*Tr. p. 4510.*) When Ploetner took over Rascher's work on 31 March (*Tr. p. 973*), Blome continued his interest in polygal as shown by a telephone conversation with Sievers on this matter on 24 July. (*Tr. p. 976.*)

* * * * * * *

c. Selection from the Argumentation of the Defense

EXTRACT FROM THE CLOSING BRIEF FOR DEFENDANT BLOME

* * * * * * *

The question of *polygal* was from the beginning one of the weakest counts of the indictment against Dr. Blome. It is a remedy to make the blood clot and to prevent people from bleeding to death as a result of wounds inflicted in battle or by operation, or from injury due to excessive loss of blood. This equally innocuous and beneficial remedy was apparently made the object of a charge only because Dr. Rascher

once maintained that he had killed four concentration camp inmates with pistol shots in order to try out polygal on them. (*NO–1424, Pros. Ex. 462; NO–065, Pros. Ex. 221.*) But I believe that every intelligent person must have approached this contention of Rascher's with the strongest distrust, because one cannot try out a styptic on a dead person, and Dr. Blome, like other physicians, has repeatedly assured me that they did not understand what Dr. Rascher had in mind with such actions, which of course had nothing to do with "experiments". But even on the assumption that these stories of Dr. Rascher were true—that he had actually killed some concentration camp prisoners in order to "experiment" on them with "polygal"—by what right can Dr. Blome be held responsible for this, a man who knew nothing at all about these crimes of Dr. Rascher? Dr. Blome has been waiting in vain for evidence to be submitted by the prosecution to prove that he (Dr. Blome) had had anything to do with those actions of Dr. Rascher, that he had at least approved or at any rate had some knowledge of them. The document presented by the prosecution proves that Dr. Blome can certainly not be held responsible for the alleged shooting of four concentration camp inmates by Dr. Rascher. (*NO–1424, Pros. Ex. 462.*) This murder committed by Dr. Rascher, if it was committed at all, happened before August 1943, according to Document NO–1424. It was during this month that the witness Friedrich Karl Rascher found in the writing table of his nephew, Dr. Rascher, the report on the shooting of the four concentration camp inmates. Dr. Blome, however, heard about polygal for the first time only during his second visit to Himmler in August or September 1943; before that time the matter was unknown to him. This statement by Dr. Blome concerning the date is in agreement with the testimony of Sievers of 10 April 1947, according to which the joint visit of Dr. Blome, Sievers, and Rascher to Himmler took place in the autumn of 1943. From this it is evident that the murder of the four concentration camp inmates by Dr. Rascher, if it has really any connection with polygal, happened without doubt at a time when Dr. Blome still had no knowledge of this styptic. Dr. Blome has rightly pointed out that it would have been a completely incomprehensible insanity to kill people only for the purpose of testing a styptic at a time when every day offered an abundance of material for the observation and study of the effect of polygal in the thousands of wounded soldiers and of patients operated on at the front as well as among the civilian population.

In this connection it is, incidentally, quite interesting to learn from the interrogation of the witness Neff that he never saw or observed any such "experiments" by Dr. Rascher. Neither did Dr. Rascher tell Neff anything about them, although Neff held a particularly confidential position with Rascher and otherwise learned much about Rascher and his "experiments". Even in the camp nothing was said at the time

about these alleged "experiments" of Dr. Rascher with polygal, although it could certainly not have been and also did not have to be kept secret in the camp if Rascher had actually shot four concentration camp inmates in order to carry out "experiments" on them with polygal.

These facts justify serious doubts as to whether those "experiments" ever took place at all and especially whether they have anything to do with the hemostatic polygal.

In reality, polygal is an absolutely harmless drug, whether it is injected or taken in tablet form, and the use of such a drug in this form can in no case be considered a criminal experiment against humanity as specified by the indictment before this Tribunal. Even when administered by injection with the subsequent drawing of a few drops of blood from the experimental subject, it is completely harmless. It does not cause any more "pain" than any other injection, and the whole test of this drug consists solely of taking one cc. of blood from the vein of the so-called experimental subject. Thus we are not dealing with any experiment of the kind that could be considered criminal because it causes severe pains or because it is dangerous or for any other reasons.

Besides, the concept of "criminal experiments on human beings" has already been explained at the trial of Field Marshal Milch * by the verdict of 16 April 1947; this verdict expressly limits the range of such experiments to experiments "which could cause torture or death to the experimental subjects." Thus one cannot, in the present proceedings, object to those experiments which cannot ordinarily be assumed to cause death to the experimental subject or be accompanied by severe pain. Neither took place when polygal was administered. For either it serves as a hemostatic which can only be of advantage to the patient or, in the reverse case, it simply has no effect. Polygal can never have any harmful consequences, least of all cause any damage to health; nor could this be claimed by the prosecution, for polygal is generally used in surgery nowadays.

And finally, all the persons who submitted to polygal tests were volunteers. Dr. Blome, however, could not prove this here by interrogating the inventor of the drug, Feix, because the prosecution prevented defense counsel from examining Feix by transferring the latter to Dachau, whence he later escaped. The transcript of the interrogation of Feix by the prosecution was not submitted here, even though Feix had told me personally that he could not understand how any blame in connection with polygal could be put on Dr. Blome. But another witness, namely Walter Neff, testified here on the witness stand that the experimental subjects on whom the experiments had been carried out had volunteered, just as he himself had done. Since Neff

*United States *vs.* Erhard Milch. See Vol. II.

was produced as witness by the prosecution,* the latter will hardly want to declare the testimony, sworn to by Neff, to be untrue.

The verdict of 16 April 1947 against Field Marshal Milch quoted above, states explicitly that medical experiments are punishable only when carried out without the consent of the subjects. Furthermore, punishability presumes that the experiments were a "torture" for the experimental subject or jeopardized his life. Both conditions obviously do not apply to polygal. Thus one comes to the conclusion that it would have been better not to mention within the limits of this trial subjects where even the closest observer has to look very carefully to see whether he could not possibly find anything to object to.

This applies especially to the report of the Institute for Military Scientific Research (Department Rascher), on coagulation of blood. (*NO–438, Pros. Ex. 240.*) In this report, the author, Dr. Rascher, emphasizes the importance of "Polygal 10" for combat troops and in operations and describes five operations where polygal was used with good results. There can be no doubt that those were five bona fide operations which were performed on patients in an entirely legitimate way and which tested polygal's effectiveness in stopping bleedings in an absolutely proper manner, as it is usually done, with similar drugs. It is inconceivable how a conclusion of illegal "experiments" could have been drawn from that report.

One of these five legitimate operations, by the way, is described in a report by the camp physician Dr. Kahr, dated 12 October 1943 [10 December 1943] (*NO–656, Pros. Ex. 247*) ; it does not offer any basis for assuming an "experiment". In this connection it is worthwhile to note that Dr. Blome himself, in his affidavit of 25 October 1946 (*NO–471, Pros. Ex. 238*), under section 8 describes the use of polygal in cases of "battle wounds and operations", but deals with "experiments on human beings" only in the next section, 9. Therefore, Dr. Blome knew from the beginning that polygal had nothing to do with "experiments on human beings".

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d. Evidence

Prosecution Documents

Doc. No.	Pros. Ex. No.	Description of Document	Page
NO–1424	462	Affidavit of Fritz Friedrich Karl Rascher, M. D., 31 December 1946, concerning the life and activities of Dr. Sigmund Rascher.	676
NO–438	240	Report from the Institute for Military Scientific Research, (Department Dr. Rascher) on "Polygal 10."	676
NO–656	247	Memorandum by SS Obersturmbannfuehrer Wolff, 8 May 1944; letters from Dr. Kahr to Rascher, 10 and 16 December 1943.	680

*Neff was called as witness by the Tribunal.

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Extracts from the testimony of defendant Sievers..... 682

TRANSLATION OF DOCUMENT NO–1424 PROSECUTION EXHIBIT 462

AFFIDAVIT OF FRITZ FRIEDRICH KARL RASCHER, M. D., 31 DECEMBER 1946, CONCERNING THE LIFE AND ACTIVITIES OF DR. SIGMUND RASCHER

AFFIDAVIT

I, Fritz Friedrich Karl Rascher, being duly sworn, depose and state:

1. I was born on 13 August 1888 at Kellmuenz/Schwaben-Neuburg. I am a German citizen. My present civilian address is: Hamburg, Parkallee 78. I attended the following schools: 4 years public school at Augsburg, 4 years St. Anna Gymnasium at Augsburg, 2 years Real-Gymnasium at Augsburg, and 4 years of senior high school at Ravensburg. I graduated from junior college at Ravensburg in 1909. I studied medicine for 5 years at Munich. I passed my state board examination in 1914 at Munich. From 1914 to 1917 I worked as general practitioner. In the autumn of 1917 I was drafted into the armed forces, remained however at first in Hamburg in the home guard reserve and worked at the same time as general practitioner until May 1918. From May 1918 until November 1918 I was a medical officer. Since the end of 1918 until now I have been a general practitioner in Hamburg.

2. I am the uncle of Dr. Sigmund Rascher and have always maintained a pleasant family relationship with my nephew. I also was well acquainted with the wife of Dr. Sigmund Rascher, Nini Rascher nee Diehl. I also maintained contact with Dr. Sigmund Rascher and his wife during the war until the arrest at the end of 1943 or beginning of 1944. For the reasons stated above, I am in the position to make the following statement:

3. While attending the wedding of my nephew in Munich he told me that he had been asked to take over a laboratory in the concentration camp Dachau by order of the Luftwaffe and in connection with the Ahnenerbe. This offer was made to him through the medium of his wife and Himmler. He told me that this would be a big chance to work free and undisturbed. At the same time he saw in it a chance of continuing his experiments on blood crystallization. In these experiments he was supported by a relative of his wife by the name of Fraeulein Lulu, who later committed suicide. At that time I advised my nephew against accepting such a job.

4. In August 1942 I heard from my nephew in Munich that he had taken over the laboratory at Dachau and that he would work there extensively. Knowing the great diligence and the ambition of my nephew I was not surprised that he accepted this job.

At that time I drove with my nephew by car up to the entrance of the concentration camp, but did not enter. The only thing I heard from my nephew at that time was that he had carried out high-altitude tests on himself.

5. In August 1943 I was with my nephew twice in the Dachau concentration camp. The first time I went only to his private quarters and did not see the laboratory. The second time he showed me his laboratory and introduced me to his colleagues. I still remember the following names: Dr. Punzengruber and Dr. Feix. I inspected the chemical exploitation of blood coagulation. At that time he also told me of freezing experiments. He said that he had carried these out on himself at first and then he introduced to me one of his colleagues who had volunteered three times for these experiments. If I remember rightly, Himmler is supposed to have been present at one of these experiments and to have pardoned the man who was condemned to death. During the absence of my nephew, I accidentally found the following document in his desk:

It refers to a report about the shooting (execution) of four people for the purpose of experimenting with the hemostatic preparation "Polygal 10". As far as I remember they were a Russian Commissar and a cretin, I do not remember who the other two were. The Russian was shot in the right shoulder from above by an SS man who stood on a chair. The bullet emerged near the spleen. It was described how the Russian twitched convulsively, then sat down on a chair and died after about 20 minutes. In the dissection protocol the rupture of the pulmonary vessels and the aorta was described. It was further described that the ruptures were tamponed by hard blood clots. That could have been the only explanation for the comparatively long span of life after the shot. After reading this first protocol I was so shocked that I did not read the others. At the time I took a sample of the hemostatic preparation from the desk which I submit herewith to the files.

6. On the way to Munich after this visit to Dachau, which was my last, I called my nephew to account. He raved when he learned that I knew of this matter. After appealing to his conscience, from the scientific as well as from the humane point of view, he broke down and cried: "I dare not think, I dare not think." In Munich my nephew and I continued this conversation during the whole night. Dr. Sigmund Rascher admitted at the time that he was on the wrong path but that he didn't see any possibility of resigning from it.

7. At the end of 1943 or beginning of 1944 I received a letter from my nephew, in which he informed me that he and his wife had been arrested because of illegal adoption (and registration) of a child. This letter was accompanied by a note by Kriminalrat Schmidt from Munich in which he informed me that I should contact him if I knew anything about this matter. I wrote at the time to Munich that I considered this to be impossible because I myself had once seen Frau Rascher in a pregnant state. I am a doctor and examined her myself. That was before the birth of the second child; she was then in the 6th or 7th month of pregnancy. I wish to add that the first son looked very much like his father and also had similar habits.

8. Since this occurrence in 1943 or 1944 I have not heard from either Dr. Sigmund Rascher or his wife. Only in 1946 I learned from various people that my nephew had been shot in Dachau before the arrival of the Americans and that his wife had been hanged at Ravensbrueck or Berlin on orders of Himmler. I also submit to the files three pictures taken during the youth of Dr. Sigmund Rascher. All my nephew's documents which I had in my possession I burned in 1944 because I was afraid of the Gestapo.

I have read the above affidavit in the German language consisting of 2 pages and declare that it is true and correct to the best of my knowledge and belief. I was given the opportunity of making alterations and corrections in the above affidavit. This affidavit was made by me voluntarily, without any promise or reward and I was subjected to no compulsion or duress of any kind.

[Signature] RASCHER

Hamburg, 31 December 1946.

PARTIAL TRANSLATION OF DOCUMENT NO-438 PROSECUTION EXHIBIT 240

REPORT FROM THE INSTITUTE FOR MILITARY SCIENTIFIC RESEARCH, (DEPARTMENT DR. RASCHER) ON "POLYGAL 10"

[Handwritten]
Mue. med. Wo. Schri.
delivered 20 Dec. 1943.

From the Institute for Military Scientific Research (Department Dr. Rascher) "Polygal 10", a hemostat to be administered orally

by

Dr. med. S. Rascher, Munich, and Dr. med. H. Haferkamp, Waltershausen (Thuringia).

A good hemostat has to have the following qualifications:

1. It must be harmless.

2. It must be administered easily (orally).

3. It must not have an unpleasant taste.

4. It must have a deep and long-lasting effect on bleeding and clotting time.

5. After the effect wears off it must be possible to administer another dose without any danger.

Hemostats now on sale commercially meet these demands only partially. No unobjectionable hemostat is known so far which is in tablet form, durable, unimpaired by cold temperatures and therefore easily transportable. But it would be worthwhile to produce such a preparation whose application would have the following important advantages:

1. It could be given prophylactically to the combat troops before an attack and to air crews before action. Too great a loss of blood could be avoided that way when tending to wounds is delayed; similarly it would prevent the wounded from becoming incapacitated by delaying the loss of blood.

2. Before operations in which greater areal bleeding is to be expected, it could be used to keep the operational region clear of interfering bleeding.

3. Persons having a long blood clotting time could benefit inestimably from such a remedy in cases of teeth extractions, etc.

4. In severe cases of lung or stomach hemorrhage which cannot be treated surgically at once, such a remedy could be life saving.

We believe we have such a remedy in "Polygal 10," a preparation composed and tested in our institute, which does fulfill the above requirements. "Polygal 10" is a drug composed on a "pectin" base; its new method, differentiating it from other hemostats on a pectin base is to be found in the activation of pectin before composing it into the hemostat.

Before we tried the clinical use of the drug and had it probed, it was tested on *human beings* by thorough experiments as to its influence on the period of clotting and bleeding. The period of clotting was occasionally established in short intervals by 10 parallel definitions of free flowing venous blood according to the method of *Buercker*. The period of bleeding was measured by a stop watch after a wound at the ear had been inflicted by a "Frankeschen Schnepper."

On the enclosed graphic chart (not reproduced) the curves of two experimental subjects are displayed (experimental subjects Nos. 200 and 207). The depth of decline and the duration of effect correspond to the average. It is to be mentioned with reference to the curves that *various persons* were always used for the *experiments* in order to avoid a possible accumulation of effect by the drug.

* * * * * * *

TRANSLATION OF DOCUMENT NO–656
PROSECUTION EXHIBIT 247

MEMORANDUM BY SS OBERSTURMBANNFUEHRER WOLFF, 8 MAY 1944; LETTERS FROM DR. KAHR TO RASCHER, 10 AND 16 DECEMBER 1943

[Handwritten] The Preparation of Polygal

Waischenfeld/Oberfranken 8 May 1944
No. 135 Telephone No. 2
Journal No. Wo/He.

The Reich Leader SS
Personal Staff
Office Ahnenerbe

SUMMARY

SS Hauptsturmfuehrer S. Rascher MD. was assigned the following research tasks by the Reich Research Council:

* * * * * * *

2. On 23 February 1944 Journal No. Rf 3717/44g Code word: "Polygal." Research task for the development of production methods for the preparation of the hemostat polygal. Priority SS/44 Wehrmacht order number: SS 4118–0391/44 Rf 2829.

Point 11 as an addition to the task.

Procurement of supplies, etc., has a priority rating SS 4950 (Group I).

[Signature] Wolff
SS Obersturmfuehrer

Copy

Concentration Camp Dachau
The Camp Physician

Dachau, 10 December 1943

Subject: Administering "polygal" after amputation of the thigh of a 40-year-old male patient.

To: Stabsarzt Dr. Rascher
Dachau

On 10 December 1943 the effectiveness of "polygal" in the case of the amputation of the thigh was tested. The drug was administered per os 45 minutes before the operation and was placed in the patient's mouth to be dissolved. A blood transfusion of 500 cc. had been

made the previous day in preparation for the operation. Blood pressure on the day of the operation was 180/80.

As regards the effectiveness of "polygal" one can say that it was absolutely evident how little the tissues bled. After the first rush of blood from the vessels which had been cut, when completely emptied of blood no more bleeding occurred after this first flow of accumulated blood, so that it was not necessary to apply any ligatures to the surface of the muscles and the fatty tissues, or the subcutaneous tissues, as had always been the case with other amputations. The effectiveness of "polygal" must in this case be described as complete.

By order: [Signed] Dr. Kahr
SS Obersturmfuehrer
The First Camp Physician, Concentration Camp Dachau

Copy

Concentration Camp Dachau
The Camp Physician

Dachau 16 December 1943

To: SS Hauptsturmfuehrer Dr. Rascher
Dachau

"Polygal 10" was used for 2 herniotomies. The patients were men of 35 and 42 years of age, respectively. In both cases the tablets were administered to the patients 40 minutes before the operation. Blood pressure before the operation was 135/80 in the case of the 35-year-old patient and 145/80 in the case of the 42-year-old patient. Both patients tolerated "polygal 10" without complaint, nor were there any unpleasant accompanying symptoms in the stomach.

It is to be said of the operation itself that the loss of blood was conspicuously slight in both cases. As in the case of all preceding operations where "polygal 10" had been administered, it was only necessary in this case, to cut off the bleeding from the vessels. In the first case, that of the 35-year-old patient, stronger bleeding from the subcutaneous tissues occurred after the skin had been cut, which, however, was stopped by mere wiping, so that in this case the application of clips to the subcutaneous tissues was unnecessary. Only after cutting the cremaster was it necessary to apply some ligatures, because then some smaller vessels were pierced. During the further course of the operation, i. e., the separation of the hernial sac from the funiculus spermaticus (it was an indirect inguinal hernia), several spots bled in the beginning, but bleeding came to a standstill at once and the use of ligatures was superfluous.

The same observations were made in the second case, the case of the 42-year-old patient. Hemostasis by application of ligatures was

necessary in only a few spots, and this was always in those places where vessels had been injured during the operation. The favorable effect of "polygal 10" in surgical operations consists not only in its causing slight bleeding and preventing great loss of blood, but also in that it makes possible considerably faster operations, because the applications of clips and later ligatures always takes up a certain time, which can be saved by the use of "polygal 10."

[Signed] Dr. Kahr
SS Obersturmfuehrer

EXTRACTS FROM THE TESTIMONY OF DEFENDANT SIEVERS*

DIRECT EXAMINATION

* * * * * * *

Dr. Weisgerber: The prosecution has submitted a single Document, NO-1424, Prosecution Exhibit 462. This is an affidavit of Dr. Fritz Friedrich Karl Rascher, who is an uncle of Dr. Rascher. It becomes evident from this document that Rascher was carrying out fatal experiments on human beings in connection with the development of polygal. Did you know about that at any time?

Defendant Sievers: No, I heard nothing about it. After Rascher's arrest, however, in 1944, the Police President of Munich, von Eberstein, gave me a rather excited description of this criminal Rascher. He said that Rascher had even shot at a human being in order to test his coagulating drug. A confirmation of this statement could not be obtained at that time. I didn't believe it at first because so many rumors were flying around about him and his wife after his arrest—one of them was that he removed his collaborator Muschler by murdering her. Rascher, incidentally, succeeded in clearing himself of this suspicion of murder. After everything has become known through this trial—everything that Rascher has on his conscience—I am rather inclined to believe it. Uncle Rascher's statements also reveal how secret Rascher kept his misdeeds. Only by interfering with his nephew's desk did Uncle Rascher gain knowledge of whatever he is testifying here. At the same time, he confirms in his statement that his nephew was furious when he found out about his interference.

Q. Concluding these questions, I put to you Pohl's affidavit which is Document NO-065, Prosecution Exhibit 221. I quote (this is on top of page 3): "Sievers told me the following: Ahnenerbe, of which Sievers was manager, was developing a drug in Dachau, by order of Himmler, which had as its result the quick coagulation of blood. He said that it was very important for fighting units because it prevented their bleeding to death. The experiments in Dachau, during which

*Complete testimony is recorded in mimeographed transcript, 9, 10, 11, 14 Apr 1947, pp. 5656–5869.

one inmate was shot at, have proved these results." Did you tell Pohl anything to that effect?

* * * * * * *

A. I told Pohl exactly what I had found out from Eberstein. As I already said, the development stage of polygal was already concluded when he received Himmler's order to take care of the production. If Rascher shot at an inmate in connection with polygal research then this, at any rate, occurred at a time when he had nothing to do with that matter. I only heard of this alleged shooting after Rascher's arrest, as I have already testified.

Q. Mr. President, in this connection I offer Document Sievers 10 as Sievers Exhibit 8. I beg your pardon, Sievers Exhibit 9. This is an affidavit of Oswald Pohl. The essential points to be found on page one of this document are, and I quote:

"1. My affidavit of 23 July 1946 concerning medical experiments was submitted to me with reference to my statements in paragraph 4, Sievers (Ahnenerbe).

"2. Sievers' diary of 1944 (*3546–PS*) was submitted to me with reference to the entry of 15 June 1944, 9 o'clock (page 167):

"SS Obergruppenfuehrer Pohl.

"1. Production of polygal and settlement Felix."

Paragraphs two to six are not interesting here and I shall skip them. I quote again:

"After having read this entry in the diary, I can remember Sievers' visit very well and I can state according to the best of my knowledge and conscience:

"When all the relevant points concerning the possibility of producing (installation for manufacture) the blood-stanching remedy 'polygal', as well as the other items had been discussed, Sievers told me a few things about the Rascher case before I called in SS Standartenfuehrer Maurer to discuss the employment of scientist prisoners in mathematical calculating problems. He informed me that Rascher and his wife had been arrested for jointly committing child substitution and abduction. Through Rascher's arrest, several unbelievable things had apparently come to light which were now being investigated. It was also maintained that Rascher was supposed to have fired at a prisoner in order to test the 'polygal'. Sievers therefore expresses an assumption which he himself had only heard, and not a fact based on his own knowledge."

And then follows the certification.

* * * * * * *

14. GAS OEDEMA (PHENOL) EXPERIMENTS

a. Introduction

The prosecution introduced evidence calculated to show that inhuman acts and atrocities (as generally alleged in paragraph 6 of the indictment) were committed in the course of gas oedema experiments. These experiments were not specifically described in the subparagraphs of paragraph 6 of the indictment, which particularized 12 specific types of experimentation. On this charge the defendants Mrugowsky and Hoven were convicted and the defendant Handloser was acquitted.

The prosecution's summation of the evidence on the gas oedema experiments is contained in its closing brief against the defendant Mrugowsky. An extract from this brief is set forth below on pages 684 to 685. This argumentation is followed by selections from the evidence on pages 685 to 694.

b. Selection from the Argumentation of the Prosecution

EXTRACT FROM THE CLOSING BRIEF AGAINST DEFENDANT MRUGOWSKY

* * * * * * *

Gas Oedema Serum Experiments

The affidavit of Dr. Erwin Schuler, alias Ding, states that at a conference in the Military Medical Academy in Berlin, at the end of 1942, in which he took part, one of the topics of discussion was the fatality of gas oedema serum on wounded soldiers. The affidavit goes on to state that among the participants in the discussion were Killian, General Schreiber, Mrugowsky, and a medical officer who was unknown to him. Killian and Mrugowsky gave reports on soldiers who had received the serum in high quantities and hours later, after apparently having recovered, died suddenly without visible reason. It was suspected that the phenol content of the serum brought about the fatal result. In the presence of Killian and Schreiber, Mrugowsky ordered Ding to take part in the performance of euthanasia with phenol on a concentration camp inmate and to describe the results in detail. Ding later witnessed the execution of four or five persons with phenol injections by the defendant Hoven in the Buchenwald concentration camp. According to orders, Ding reported his findings to Berlin. (*NO–257, Pros. Ex. 283.*)

Mrugowsky denied having given any such order to Ding. It is quite apparent, however, that Ding-Schuler, who was under arrest at the time he executed this affidavit, would not have implicated himself in a crime which did not occur. Mrugowsky's continued interest in the

effect of the phenol contained in serum is evidenced by a letter of 24 August 1944 from Grawitz to him. Grawitz stated that the Reich Leader SS had approved experiments proposed by Mrugowsky on the tolerance of serum containing phenol. (*NO–1198, Pros. Ex. 466.*)

d. Evidence

Prosecution Documents

Doc. No.	Pros. Ex. No.	Description of Document	Page
NO–429	281	Extracts from the affidavit of Waldemar Hoven, 24 October 1946, concerning the killing of inmates by phenol and other means.	685
NO–257	283	Extract from a sworn statement by Dr. Erwin Schuler (Ding), 20 July 1945, concerning euthanasia with phenol injection.	686

Testimony

Extracts from testimony of the defendant Mrugowsky 688

TRANSLATION OF DOCUMENT NO–429 PROSECUTION EXHIBIT 281

EXTRACTS FROM THE AFFIDAVIT OF WALDEMAR HOVEN, 24 OCTOBER 1946, CONCERNING THE KILLING OF INMATES BY PHENOL AND OTHER MEANS

I, Waldemar Hoven, being duly sworn, depose and state:

1. I was born in Freiburg, Breisgau, on the 10th of February 1903. I attended high school but did not complete my education until many years later. Between the years 1919 and 1933 I visited Denmark, Sweden, United States, and France. In 1933 I returned to Freiburg and completed my high school course and then attended the Universities of Freiburg and Munich. In 1939 I concluded my medical studies and joined the Waffen SS as a physician. The last rank I held in the Waffen SS was Hauptsturmfuehrer (captain). In 1934 I had joined the Allgemeine SS.

2. In October 1939 I was assigned as an assistant medical officer in the SS hospital in the Buchenwald concentration camp and held that position until 1941 when I was appointed the medical officer in charge of the SS troops stationed in the camp. At the end of 1941 I was transferred to the camp hospital and became the assistant medical officer therein. This hospital was for the inmates of the Buchenwald concentration camp. In July 1942 I was elevated to the position of chief physician and thereby had the full responsibility for the inmate patients in the hospital. I held this position until September 1943 when I was arrested by the SS police court of Kassel and remained under arrest until 15th of March 1945.

3. Due to my various positions in the Buchenwald concentration camp during this period of nearly four years I became acquainted

with all phases of the medical activities therein and am hereby able to make the following statement:

* * * * * * *

10. In the camp we had a great many prisoners who were jealous of the positions held by a certain few of the inmates, that is, some of the political prisoners held key positions and were able to get better living conditions than the average. Hence, many of the prisoners envied these positions and made every effort to discredit the men who held the key positions. Such traitorous actions became known through the "grapevine" to the men in the key positions and then such traitors were immediately killed. In each case I was later notified in order to make out the death statements of the prisoners killed. These statements did not indicate the actual cause of death but were made out to indicate that the prisoner died of natural causes.

11. In some instances I supervised the killing of these unworthy inmates by injections of phenol at the request of the inmates. These killings took place in the camp hospital and I was assisted by several inmates. On one occasion Dr. Ding came to the hospital to witness such killings with phenol and said that I was not doing it correctly, therefore he performed some of the injections himself. At that time three inmates were killed with phenol injections and they died within a minute.

12. The total number of traitors killed was about 150, of whom 60 were killed by phenol injections, either by myself or under my supervision in the camp hospital, and the rest were killed by various means, such as beatings, by the inmates.

The above affidavit written in the English language, consisting of five (5) pages, is true and correct to the best of my knowledge and belief. This affidavit was given by me freely and voluntarily, without promise of reward and I was subjected to no duress or threat of any

[Signed] Dr. Waldemar Hoven

TRANSLATION OF DOCUMENT NO–257
PROSECUTION EXHIBIT 283

EXTRACT FROM A SWORN STATEMENT BY DR. ERWIN SCHULER (DING), 20 JULY 1945, CONCERNING EUTHANASIA WITH PHENOL INJECTION

Freising, 20 July 1945

Erwin Schuler, M. D.
Case 508
As ordered I am briefly answering two questions:
1. *Witness of Euthanasia with Phenol at Buchenwald.*

At the end of 1942 I took part at a conference in the Military Academy of Medicine in Berlin. The topic of discussion was the fatal effect of gas gangrene serum on wounded men.

Present: Generalarzt Professor Schreiber, hygienist of the Military Academy of Medicine; SS Oberfuehrer Professor Mrugowsky, hygienist; Oberstabsarzt Professor Killian, professor in the University of Breslau, surgeon; a medical officer (surgeon) whose name I did not know; and myself, as department chief of the Central Institute for the Combating of Epidemics, Berlin.

Killian and Mrugowsky gave reports on soldiers who had been given gas gangrene serum in high quantities (up to 1,500 cc.) and hours afterwards, while feeling perfectly well, had died suddenly without any visible reason. Mrugowsky suspected that the cumulative effect of the phenol content of the injections was responsible for the deaths.

In the presence of the other gentlemen, Mrugowsky ordered me to take part in euthanasia with phenol in a concentration camp and to describe the result in detail, since neither I nor Mrugowsky had ever seen a case of death by phenol. Mrugowsky himself could not take part in the euthanasia because of an urgent trip to the East, on the other hand the affair was urgent for the fighting troops, and the publication of a new circular for the troop doctors.

A few days later I asked Dr. Hoven in Buchenwald to notify me when he performed euthanasia with phenol. The next evening he asked me to come to the operating theater in the inmates' hospital. Besides himself and another doctor—probably Dr. Plaza—only two other prison male nurses, whom I cannot remember, were present.

I talked to the doctor about the composition of the phenol injection and, as far as I can remember, it consisted of undiluted raw phenol, which was to be administered in doses of 20 cc.

One by one, four or five prisoners were led in. The upper part of the body was naked so that their nationality patch [on their clothing] could not be distinguished. The condition of their bodies was bad and their age was advanced. I do not remember a diagnosis as to why euthanasia was to take place, but probably I did not ask about it either.

They sat down quietly on a chair, that is without any sign of excitement, near a light. A male nurse blocked the vein in the arm and Dr. Hoven quickly injected the phenol. They died in an immediate total convulsion during the actual injection without any sign of other pain. The time between the beginning of the injection and death I estimate at about ½ second. The rest of the dose was injected as a precautionary measure, although part of the injection would have been enough for the fatal result (I estimate 5 cc.).

The dead were carried into an adjoining room by the nurses—I estimate the time of my presence at 10 minutes.

I reported in Berlin according to orders. I know nothing further to say.

* * * * * * *

EXTRACTS FROM TESTIMONY OF THE DEFENDANT MRUGOWSKY*

DIRECT EXAMINATION

* * * * * * *

DR. FLEMMING: I now turn to the gas gangrene experiments. When examining the defendants Handloser, Rostock, Schroeder, Genzken, and the witness Bernhard Schmidt, we heard to what extent gas gangrene became prevalent at the front. I refer you to the Document NO–578, Prosecution Exhibit 284. I shall have it submitted to you. Would you please tell the Tribunal whether, in connection with gas gangrene, there was an extreme necessity in concentration camps and in the army to discover protective means to combat this disease?

DEFENDANT MRUGOWSKY: It was pointed out frequently that no infection can be taken so seriously in the surgical field as the infection by gas gangrene, since the mortality cases of these injuries were very high. In concentration camps, as Noeling told me, we often had cases of gas gangrene. Therefore, the Asid Works suggested that vaccine should be used in the same manner as in the case of diphtheria. This was done in these works sometimes in cases of tetanus. Such vaccine against gas gangrene was produced by the Behring Works and was tested on students at Marburg University at first, about which a publication is available. I received a small part of this gas gangrene toxin in order to protect people in danger. This gas gangrene toxin I gave to Noeling and he used it at Buchenwald. The chart is available concerning persons on whom this vaccine was used. It becomes evident from that that there is even an increase in temperature following that vaccination, and that we are here concerned with a completely harmless project which has nothing at all to do with an infection.

Q. Dr. Ding in an affidavit (*NO–257, Pros. Ex. 283*) stated that at the Military Medical Academy a conference took place on the question of gas gangrene serum. What do you know about that?

A. It is correct that such a conference actually took place. Whenever gas gangrene occurred a large amount of gas gangrene serum had to be used for treatment in order to insure success. It was not a mere

*Complete testimony is recorded in mimeographed transcript, 27, 28, 31 Mar and 2, 3 Apr 1947, pp. 5000–5244, 5334–5464.

ten or fifteen cubic centimeters, but 400 to 800 cubic centimeters which was given to the patient in the course of a few days. In Germany all serums which are obtained from animals, mostly horses, are mixed with 0.5 percent of phenol and carbolic acid—in order to preserve them—i. e., to 400 cubic centimeters I added a concentration of two cubic centimeters of phenol acid. This amount is, of course, far above the tolerance of human beings. Carbolic acid is one of the strongest acids we possess. When treating people with gas gangrene serums a number of deaths occurred. We discussed whether we were dealing with cases of serum death, resulting from the serum, or whether death was caused by the phenol added. Ding and I participated in that conference with others.

* * * * * * *

Q. Did you give Dr. Ding an assignment on the basis of this discussion to test this phenol question?

A. Yes, I told him to study the literature and to make use of the libraries of the pharmacological and forensic medicine institute in Jena. He was in touch with those institutes.

Q. Did you give him the assignment to participate in euthanasia with phenol?

A. No. I never heard anything about his having carried out such euthanasia, or of such killings having been carried out. I could not, therefore, have given him any such order.

Q. You are aware that in an affidavit of your codefendant Hoven it is stated that Ding himself carried out killings in Buchenwald with phenol. Had you given him instructions to that effect?

A. No. I did not give him any such instructions, and there was no occasion to do so because death by phenol is well known in literature; simply reading works on the subject would have sufficed.

Dr. Flemming: Mr. President, I submit Document Mrugowsky 28. I should like to submit it as Mrugowsky Exhibit 46. It is an affidavit of Professor Killian, who is a university professor at Halle/Saale. He says:

"In 1941–1943 I was consulting surgeon with the 16th Army in the East. We had experienced numerous cases of death and injury to the circulatory system due to the effects of gas gangrene serum. In my opinion, these bad effects cannot only be attributed to the inoculation of great quantities of unrelated serums, but also to the addition of one-half percent phenol, as is prescribed by law. Since up to 150 cc. of gas gangrene serum—sometimes even more than that—was given intravenously to wounded in the field, in my opinion the total quantity of phenol added then approached becoming a danger. This became obvious after four of my collaborators had had themselves injected intravenously with a phenol common

salt solution of 0.5 percent density. All of them showed typical signs of phenol poisoning to a different degree. In a letter to the medical inspectorate I called their attention to the disappointing effects of the gas gangrene serum and to the detrimental effect of phenol, and made proposals for a change. Consequently, I was officially ordered to report during my stay in Berlin to Oberstarzt Professor Schreiber, who was a specialist on this matter. Present at this conference were Professor Mrugowsky and a junior physician whose name I no longer remember. I did not know any of the three gentlemen; I saw and spoke to them then for the first time. Apart from a few general questions concerning bacteriology, we discussed mainly the gas gangrene serum problem. I had to give an exact report on what took place at the front and on the symptoms of poisoning. The discussion then took two directions. First, the question whether it was possible for industry to substitute a harmless disinfectant for the dangerous phenol, and which one of the many substances would be suitable for this purpose."

Number two is not important. And I can skip the next paragraph too. I come to the last paragraph:

"I well remember the substance of the discussions and declare that no mention was made of any experiments in a concentration camp, or of effecting euthanasia by injecting phenol. Such considerations never even came up for discussion, let alone an order in my presence by one of the medical officers. This would certainly have remained in my memory. I may add that a reason for such experiments did not exist since the symptoms of phenol poisoning are well known and may be found in any book on pharmacology. Apart from this, the question had been sufficiently settled by the above-mentioned experiments which the physicians had carried out on themselves. I am convinced that Dr. Ding's statements are not true." [Signed by Professor Killian, and certified.]

On the basis of instructions that he was to inform himself from literature about phenol poisoning—instructions which you gave to him—what did Ding report? Was the question of gangrene serum, and the deaths resulting from it, settled?

DEFENDANT MRUGOWSKY: Ding made a report. I waited for it for some time and when it did not come I myself read up on this question. Then I was no longer interested in his report.

Q. On page 20 of the Ding diary (*NO-265*, *Pros. Ex. 287*) it says that a special experiment on four persons was carried out on behalf of Gruppenfuehrer Nebe. What do you know about that?

A. I have already mentioned the case of Hauptscharfuehrer Koehler, who was at the hospital at Weimar, who died from poisoning. Inaccurate statements were given about his death and autopsy. It

was said that they occurred in the Buchenwald concentration camp—which is not true. At the discussion of the autopsy findings in the Reich Criminal Police Office, the opinion had been expressed that this death might have resulted from pervitin together with a narcotic drug. I participated in this discussion.

DR. FLEMMING: Mr. President, I have already submitted the affidavit by Dr. Konrad Morgen. (*Mrugowsky 29*, *Mrugowsky Ex. 36*.) When I submitted it I read the first one and one-half pages. I should now like to read the following portion:

"Professor Dr. Timm"—that is, the forensic medical expert from Vienna who performed the autopsy on Koehler—"came to the opinion that there were two possibilities: first, that a South American poison had been used which was totally unknown to us and which dissolves completely in the human body; second, that a combination of drugs had been used. One drug had excited the circulation to the point of exhaustion, the other drug had acted as an antidote. Professor Dr. Timm spoke of the possibility that pervitin had been used together with a soporific. The idea that a South American poison had been used was rejected from a criminological point of view. From a technical point of view the second possibility would have been quite possible.

"I had to report the case to the Reich Security Main Office. Subsequently, a conference took place in the Reich Security Main Office at which quite a number of persons were present. The chief of the Reich Security Main Office [sic], Gruppenfuehrer Mueller, presided. Gruppenfuehrer Nebe of the Reich Criminal Police was also present, as well as Professor Dr. Mrugowsky. At the conference various persons, among others also Dr. Mrugowsky, pointed out that pervitin was not a poison, that it could be obtained without a prescription. One of the gentlemen present pointed out that in America experiments were carried out where up to 100 tablets of pervitin were administered and the effects were not fatal. But no one present could answer the question of whether a combination of pervitin and a soporific would be harmless, or whether it would lead to an increased reaction to any one direction. The latter appeared improbable to the experts. In order to settle this question Gruppenfuehrer Mueller ordered that an experiment be conducted. He ordered that Dr. Ding, whom he knew, should conduct this experiment in Buchenwald.

"It was ruled that in this experiment, which was to settle the purely criminal side of the question, only minute quantities of pervitin and soporific should be used, since it would be impossible to give large quantities of pervitin and a soporific unobtrusively to the prospective victim. Moreover, larger quantities of these drugs

would have been found in any case by means of a chemical analysis. The scientific theoretical problem concerning the harmfulness or even deadliness of maximum doses did not interest anyone.

"I was present at the experiments at Buchenwald.

"Five persons were presented to us for testing, because Gruppenfuehrer Mueller had ordered experiments to be conducted on five persons. I checked the papers of the persons to be experimented on prior to the experiment. They were Russians who had deserted, or workers, who had formed a gang, stolen, and plundered, and had even been charged with murder. They had all been sentenced to death before a special court in Pomerania. Gruppenfuehrer Mueller had already previously been given the order for their execution.

"I had agreed with Dr. Ding that a preliminary experiment should be made on three persons to see the kind of reaction this combination had in the organism. Some of the condemned could speak German. They were told that the experiments were neither dangerous nor painful, and that by taking part they would at least put off their execution. Thereupon they all volunteered. Dr. Ding chose three of them. They were transferred to Block 46. There they were given a dose of pervitin and a subcutaneous injection of a soporific. Then they had to go to bed. They fell asleep. Their sleep was very restless. One of them slept for 20 hours. The others awoke a little earlier * * *."

Then he says that none of them showed the symptoms which Koehler had shown, and that the experiment was considered completed. In the last sentence of the next paragraph he says, "Therefore, I told Dr. Ding that he should not make any more experiments, and I reported this to Gruppenfuehrer Mueller." I shall read the last paragraph in another connection.

According to the affidavit of Dr. Morgen, Mueller ordered Ding to carry out the experiment at Buchenwald. Did you receive a report on this experiment?

A. No, I did not receive a report on it.

* * * * * * *

CROSS-EXAMINATION

MR. HARDY: Prior to the afternoon recess, Doctor, we were discussing the phenol problem. Now, in this connection, did you at any time propose experiments to be conducted at Buchenwald concerning the tolerance of serum or sera containing phenol? That is, did you propose that in 1942 or 1943 at any time?

DEFENDANT MRUGOWSKY: No. No such suggestions were made and they were not necessary, because in Germany every serum contains phenol. In the German serum industry there is no serum produced

without phenol. I am speaking of the sera for therapeutic purposes, not vaccines.

Q. Then at no time did you even propose that experiments be conducted to determine the tolerance of sera containing phenol; is that what you say?

A. No. I never suggested that.

Q. Are you sure, Doctor?

A. Yes.

MR. HARDY: At this time, your Honor, I offer Document NO–1198 as Prosecution Exhibit 466, for identification. This is a letter dated Berlin, 24 August 1944. Subject: Service of experiments. It has reference-file indexes, addressed to the the chief hygienist on the staff of the Reich Physician SS and Police, Berlin-Zehlendorf:

"Dear Mrugowsky,

"I am able to inform you that the Reich Leader SS has approved today the series of experiments proposed by you.

"1. Specific therapy with typhus.

"2. Tolerance of sera containing phenol.

"I agree that both series of experiments in the department for typhus and virus research of the Hygienic Institute of the Waffen SS in Weimar-Buchenwald should be carried out, and request that I be informed of the course of the findings, perhaps through intermediary reports."

"By order of Grawitz."

The signature is "NICOLAI".

Q. Now this states that the Reich Leader SS has approved a series of experiments proposed by you and the experiments may be carried out in Buchenwald. You stated that you never proposed experiments to determine the tolerance of sera containing phenol. Now do you maintain, Doctor, that you never initiated any experimentation to determine the tolerance of sera containing phenol?

A. Yes. The connection here is something quite different. I shall discuss point two first.

I have already said that in Germany there were no sera without phenol. In connection with this phenol question in German serum, I informed Grawitz about the question which is being discussed here—Killian and Schreiber were present—and I told him that industry should try to produce sera without phenol, as the French serum industry had been doing for some time. I knew that suggestions to that effect had been sent to the industry, but that the German serum industry had refused, during the war, to effect any such basic change in its production because it was not in a position to obtain the necessary special apparatus, filters, etc. I therefore told Grawitz that in serum therapy for ordinary diseases—I was thinking primarily of diphtheria,

where large quantities of serum were used at the time in the therapy against diphtheria once it had broken out, because the highly concentrated serum was no longer available in necessary quantities—I told him that in the case of such diseases one should watch to see whether injury from phenol might result. I told him also that it would be desirable to know whether serum without phenol would definitely prevent such shock. I also remember that this point too had connection with the fact that we had negotiated with the Behring Works for the production of serum frequently in small quantities in order to use it, and to compare it with other serum. If I remember correctly this involved diphtheria serum, that is the serum which is used most in Germany. The comparison was to be made of symptoms following the administration of the usual antidiphtheria serum containing phenol on children, and it was to be noted whether the symptoms would appear; and the symptoms following the administration of serum free of phenol were also to be noted. This was what Grawitz meant here, and he called that a series of experiments. I might point out that this expressed series of experiments in this case cannot refer to artificial infection, because it is not possible to have a human being artifically infected with diphtheria serum.

Q. Doctor, after receiving this confirmation of your proposals to perform experiments as outlined in this letter, you must have issued orders in that regard. Now to whom did you issue those orders?

A. No. I did not issue any orders. In my opinion this concerns activities of some civilian hospitals; for among the troops, and in concentration camps, we did not have any diphtheria patients.

Q. Just a moment, Doctor. But it is said in this letter that Grawitz agrees that these experiments can be carried out in the Department for Typhus and Virus Research of the Hygiene Institute of the Waffen SS in Weimar-Buchenwald. Did you or did you not carry out these experiments in Weimar-Buchenwald?

A. No.

Q. Never issued any orders to carry out such experiments to Ding, for instance?

A. I have already explained what this series of experiments means. It is possible that I suggested, for example, that he was to vaccinate one child with one kind of serum and another child with another serum. That is possible; I don't remember about that. But to try out serum containing phenol on human beings, that I did not order. * * *

15. EXPERIMENTS FOR MASS STERILIZATION

a. Introduction

The defendants Karl Brandt, Gebhardt, Rudolf Brandt, Mrugowsky, Poppendick, Brack, Pokorny, and Oberheuser were charged with

special responsibility for and participation in criminal conduct involving sterilization experiments (par. 6 (I) of the indictment). In the course of the trial the prosecution withdrew this charge in the case of the defendants Mrugowsky and Oberheuser. On this charge the defendants Gebhardt, Rudolf Brandt, and Brack were convicted, and the defendants Karl Brandt, Poppendick, and Pokorny were acquitted.

The prosecution's summation of the evidence on the experiments for mass sterilization is contained in its closing brief against the defendant Rudolf Brandt. An extract from this brief is set forth below on pages 695 to 702. A corresponding summation of the evidence by the defense on these experiments has been selected from the final plea for the defendant Gebhardt and closing brief for the defendant Pokorny. It appears below on pages 702 to 708. This argumentation is followed by selections from the evidence on pages 710 to 738.

b. Selection from the Argumentation of the Prosecution

EXTRACT FROM THE CLOSING BRIEF AGAINST DEFENDANT RUDOLF BRANDT

Sterilization Experiments

By 1941 it was the accepted policy of the Third Reich to exterminate the Jewish population of Germany and the occupied countries.* Because of the pressing need for laborers, sterilization of Jews able to work was considered as an alternative to outright extermination. (*NO–205, Pros. Ex. 163.*)

In order to ascertain cheap and fast working methods for sterilization, experimentation on concentration camp inmates by means of drugs (*NO–036, Pros. Ex. 143*), injection of an irritating solution (*NO–212, Pros. Ex. 173*) and X-rays and surgical operation (*Tr. pp. 556–9*) were carried out on a large scale. Brandt not only had full knowledge of these experiments, but collaborated actively in all of them.

The purpose of the sterilization experiments is well described by Brandt in his own affidavit:

"Himmler was extremely interested in the development of a cheap and rapid sterilization method which could be used against enemies of Germany, such as the Russians, Poles, and Jews. One hoped thereby not only to defeat the enemy but to exterminate him. The capacity for work of the sterilized persons could be exploited by Germany, while the danger of propagation would be eliminated. As this mass sterilization was part of Himmler's racial theory, particu-

*Trial of the Major War Criminals, International Military Tribunal, Nuremberg, 1947, vol. I, pp. 247–253.

lar time and care were devoted to these sterilization experiments. Surgical sterilization was of course known in Germany and applied; this included castration. For mass application, however, this procedure was considered as too slow and too expensive. It was further desired that a procedure be found which would result in sterilization that was not immediately noticeable." (*NO–440, Pros. Ex. 141.*)

Sterilization experiments in order to ascertain the efficacy of a drug known as caladium seguinum (Schweigrohr) were suggested to Himmler by the defendant Pokorny in October 1941. Pokorny reported that Dr. Madaus had found, as a result of his research on medical sterilization of animals, that caladium seguinum produced sterility in animals when administered orally or by injection. Pokorny further stated in his letter that:

"* * * the immense importance of this drug in the present fight of our people occurred to me. *If, on the basis of this research, it were possible to produce a drug which after a relatively short time effects an imperceptible sterilization on human beings, then we would have a new powerful weapon at our disposal.* The thought alone that the 3 million Bolsheviks, at present German prisoners, could be sterilized so that they could be used as laborers but be prevented from reproduction, opens the most far reaching perspectives."

He therefore advocated immediate research on human beings in order to determine the dose and length of treatment, the cultivation of the plant caladium seguinum in hothouses, and chemical research in order to produce the drug synthetically on a large scale. (*NO–035, Pros. Ex. 142.*)

Himmler agreed to Pokorny's suggestions and requested Pohl, on 10 March 1942, to contact Dr. Madaus and to "offer him possibilities for doing research in cooperation with the Reich Physician SS (Grawitz) on criminals who would have to be sterilized in any case." He further ordered that the intended plan of research should be submitted to him. It was the defendant Rudolf Brandt who forwarded a copy of this letter to Grawitz (*NO–036, Pros. Ex. 143*) and furnished him, on 20 April, with a copy of Pokorny's report and information on the publications of Madaus concerning medicinal sterilization of animals. (*NO–037, Pros. Ex. 146.*)

Brandt's office submitted Madaus' report on the studies of experiments on animals to SS Obergruppenfuehrer Heydrich, Chief of the Security Police and SD. The letter of transmittal, dated 23 April 1942, bears the same file number as Himmler's letter to Pohl (752/5) and refers expressly to "the question of sterilization by medicine." (*NO–047, Pros. Ex. 145.*)

In June 1942 Brandt requested a report from Pohl, Chief of the

WVHA, as to the progress of the preparation for experiments. (*NO–038, Pros. Ex. 147.*) Pohl reported on 3 June 1942 that since "Schweigrohr," from which caladium seguinum was derived, grew only in North America and could not be exported in adequate quantities, attempts to grow the plant from seed cultivated in hothouses had been made by Dr. Koch of the Biological Institute of the Madaus Works. These attempts had been successful, but the process of growing the plant and developing the drug was not speedy enough and the yield not sufficient to permit experimentation on a *large scale.* In order to remove these difficulties, he said that it would be necessary to build a larger hothouse. (*NO–046a, Pros. Ex. 148.*) On 11 June, Brandt advised Pohl that he had informed Himmler of his letter and that Himmler wanted Pohl to see to it that a large hothouse was placed at Dr. Koch's disposal as soon as possible as Himmler considered the experiments extremely important. Brandt also asked Pohl for further reports in the matter. (*NO–046b, Pros. Ex. 149.*) Only eight days later Brandt himself had a conference with Pohl in which, among other things, he informed Pohl of Himmler's request to have the ingredients of caladium seguinum thoroughly investigated to determine whether equally effective ingredients could be found in plants more easily accessible. Brandt requested that the work of Dr. Koch should be carried out to the fullest extent. He informed Pohl that experiments should be conducted in concentration camps with the amount of the drug then available. Pohl agreed to take the necessary steps at once. (*NO–044, Pros. Ex. 150.*) Department IV–B–4 of the Reich Security Main Office, the agency which was in charge of the solution of the Jewish question* was informed by a subordinate of Brandt about Madaus' research work and requested to collaborate closely with Pohl in this matter. (*NO– 050, Pros. Ex. 151.*) A copy of this letter was forwarded to the defendant Rudolf Brandt. (*NO–051, Pros. Ex. 152.*)

The Deputy Gauleiter of Gau Lower Danube (Lower Austria), SS Obergruppenfuehrer Gerland, informed Himmler on 24 August 1942 that the Director of the Office for Racial Policy in that province, Dr. Fehringer, had examined the question of mass sterilization and, in this connection, had come across Dr. Madaus' studies on medicinal sterilization with caladium seguinum. For reasons similar to those suggested by the defendant Pokorny (*NO–035, Pros. Ex. 142*), Gerland advocated experimentation on inmates of the gypsy camp of Lackenbach in Gau Lower Danube. Gerland pointed out that if these experiments were successful, as was expected, it would be possible to sterilize practically unlimited numbers of people in the shortest time and in the simplest way conceivable. (*NO–039, Pros. Ex. 153.*)

*Judgment of the IMT. Ibid.

It was the defendant Rudolf Brandt who took the matter up and informed Gerland on 29 August of the steps which had already been taken in respect to experiments with caladium seguinum. From Brandt's letter, it is apparent that Himmler was not present at that time. Brandt took care of this matter on his own initiative and informed Gerland that Pohl and Grawitz were in charge of the experiments. He requested information from Gerland whether Dr. Fehringer had caladium seguinum available and what means for the procurement of this plant the latter would suggest. (*NO–040*, *Pros. Ex. 154.*) Copies of Gerland's letter were forwarded by Brandt to Pohl and Grawitz. On 7 September 1942, Pohl gave Gerland further details and informed him that he and Dr. Lolling were personally supervising the experiments. Pohl, in turn, sent copies of this letter to Rudolf Brandt and Grawitz. In the covering letter to Brandt, Pohl informed him that he had been to the Madaus Works to convince himself of the progress of the experiments and that Dr. Lolling would cooperate in them. An agreement had been reached with Madaus "to transfer the experiments to our concentration camps as soon as possible." (*NO–041*, *Pros. Ex. 156.*)

On 14 October 1942, Gerland wrote to Rudolf Brandt and informed him of the letter he had received from Pohl. He stated that he considered Dr. Fehringer's suggestion to use inmates of the gypsy camp of Lackenbach as obsolete, as Pohl had informed him that Lolling was already collaborating with the Biological Institute of Madaus. He further advised Brandt that Fehringer was of the opinion that it was quite possible to produce caladium seguinum chemically or have the plant cultivated in hothouses to an extent which would be sufficient for experimental purposes. He also suggested collaboration between Lolling and Fehringer. (*NO–043*, *Pros. Ex. 157.*) Brandt's reply of 25 October reveals that he, on his own initiative in Himmler's absence, agreed to the collaboration between Fehringer and Lolling. (*NO–049*, *Pros. Ex. 159.*) Brandt sent copies of Gerland's letter of 14 October (*NO–043*, *Pros. Ex. 157*) and his reply (*NO–049*, *Pros. Ex. 159*) to Pohl. In his covering letter to Pohl he expressed the conviction that in spite of the fact that he could not consult Himmler, he was convinced that the latter would certainly welcome experiments to produce caladium seguinum synthetically. He asked Pohl to arrange for a contact between Lolling and Fehringer. (*NO–048*, *Pros. Ex. 158.*)

There is no reasonable doubt that the sterilization experiments with caladium seguinum were, in fact, carried out on concentration camp inmates. Himmler, who was the highest authority to decide such questions, not only gave his consent to these experiments (*NO–036*, *Pros. Ex. 143*) but considered them "extremely important" (*NO–046b*, *Pros.*

Ex. 149) and requested that they should be carried out in the concentration camps *in any case.* (*NO–044, Pros. Ex. 150.*) Pohl, who was in charge of the administration of the concentration camps, agreed upon the request of Brandt to take the necessary steps immediately. (*NO–044, Pros. Ex. 150.*) There can be no doubt that Department IV–B–4 of the Reich Security Main Office, which was charged with the solution of the Jewish question, was informed about Madaus' research work for the purpose of furnishing the necessary Jewish victims for the experiments. The collaboration of Dr. Lolling, who was the doctor in charge of all concentration camps, can only be explained in connection with experimentation in these camps. This is also clear from Gerland's letter to Brandt:

> "SS Obergruppenfuehrer Pohl has informed me that *the doctor of his Main Office* is already collaborating with the Madaus Biological Institute for research on the effects of caladium seguinum, so that the suggestion of my District Main Office Leader, Dr. Fehringer, *becomes obsolete.*" [Emphasis added.] (*NO–043, Pros. Ex. 157.*)

It can only be concluded that Pohl and Lolling carried out the experiments in concentration camps as was agreed upon between them, Himmler, Brandt, and Madaus. (*NO–043, Pros. Ex. 157.*) Moreover, Brandt himself admitted in his affidavit that experiments with caladium seguinum on human beings *were* performed in concentration camps:

> "As result of Pokorny's suggestion experiments were conducted upon concentration camp prisoners in order to test the effect of the drug. Simultaneously all efforts were made to cultivate the plant in large quantities. Oswald Pohl, Chief of the Economic and Administrative Main Office, took a personal interest in this matter. Hothouses were used, with a certain amount of success, to cultivate this plant, and the experiments were continued." (*NO–440, Pros. Ex. 141.*)

On 30 May 1942, Dr. Clauberg wrote to Himmler asking his support on sterilization experiments on female concentration camp inmates. (*NO–211, Pros. Ex. 169.*) On 4 June the defendant Poppendick forwarded to Rudolf Brandt a list of doctors who were authorized to carry out sterilization. Clauberg is listed among these doctors. (*NO–214, Pros. Ex. 168.*) On 7 and 8 July, a conference took place between Himmler, Gebhardt, Gluecks, and Clauberg. The topic of discussion was the sterilization of Jewesses. Clauberg was promised by Himmler that the Auschwitz concentration camp would be placed at his disposal for experiments on human beings. He was assigned the task of performing experiments to test a method of sterilizing persons without their knowledge. He was ordered to report on this matter as soon

as possible so that measures could be taken "for the practical realization of the sterilizations on a larger scale". It was suggested that Hohlfelder be consulted on the sterilization of men by X-rays. The participants in the conference were admonished that these experiments were a matter of utmost secrecy. Rudolf Brandt denied having been present at this conference. Be that as it may, one of the two file memoranda which reveal complete knowledge of all details discussed in this conference was dictated by Brandt (*NO–215, Pros. Ex. 172*), and the other was signed by him. (*NO–216, Pros. Ex. 170.*)

On 10 July 1942, Rudolf Brandt wrote a letter to Clauberg in which he informed him of the details of his assignment and the plans for the execution of the experiments. Clauberg was ordered to report to Himmler on how long it would take to sterilize a thousand Jewesses by his method. It was suggested that Clauberg should contact Pohl and a camp physician of the Ravensbrueck concentration camp in order to perform there his sterilization experiments. Brandt stated further:

> "Thorough experiments should be conducted to investigate the effect of the sterilization, largely in a way that you could find out after a certain time, which would have to be *fixed, perhaps by X-rays*, what kind of changes have taken place. In some cases a practical experiment might be arranged by locking up a Jewess and a Jew together for a certain period and then seeing what results are achieved.
>
> "I ask you *to let me know your opinion about my letter for the information of the Reich Leader SS.*" [Emphasis added.] (*NO–213, Pros. Ex. 171.*)

Copies of this letter were sent by Brandt to Pohl, Grawitz, SS Sturmbannfuehrer Koegel of the Economic and Administrative Main Office, and to Gruppenfuehrer Mueller of the Reich Security Main Office. On 7 June 1943, Clauberg was able to report, on the basis of his experiments, that it would be possible to sterilize several hundred, if not a thousand, per day by his methods. He stated that sterilization could be "performed by a single injection made from the entrance of the uterus in the course of the usual customary gynecological examination". (*NO–212, Pros. Ex. 173.*)

The sterilization experiments of Clauberg were, in fact, carried out in the Auschwitz concentration camp. Brandt communicated with Clauberg on this matter again on 19 June and 22 July 1943. While these two letters are not available, it is clear from Clauberg's reply to Brandt, dated 6 August, that these communications were reminders to Clauberg to expedite his experimentation. In his reply, Clauberg stated:

> "I really do need the *second X-ray installation—I can give you*

the explanation only by word of mouth—at any rate the probability exists that even more of the installations will be needed later on (it depends on the application of my results the moment these are determined). For I can get the installation without further difficulties, that is, it is *'waiting'* for me—*really I have got it already!*

"I had an opportunity *to acquire one myself* and I quickly laid hands on it, and the installation has been set up for some weeks. But what I care for is the following:

"*I urgently need this installation here in Koenigshuette for my contrary (positive) research. But I cannot spare it in Auschwitz until I get a second installation from the Waffen SS.* If I may tell you something between ourselves—the fact is that I will *be able to replace my own existing installation provided the Reich Leader SS will give me his approval.* I would not bother either him or you with this *unless it were really necessary.*" (*NO–210, Pros. Ex. 174.*)

Brandt himself admitted in his affidavit that Clauberg did carry out sterilization experiments in the Auschwitz concentration camp on a large scale. He stated:

"Dr. Clauberg developed further a method for the sterilization of women. This method was based upon the injection of an irritating solution into the uterus. Clauberg conducted widespread experiments on Jewish women and gypsies in the Auschwitz concentration camp. Several thousand women were sterilized by Clauberg in Auschwitz." (*NO–440, Pros. Ex. 141.*)

Sterilization of Jews by means of X-rays was suggested to Himmler by the defendant Brack in the spring of 1941. (*NO–426, Pros. Ex. 160.*) Himmler requested Brack to investigate with some of the physicians who were active in the euthanasia program, the possibility of sterilization which would keep the victims unaware of their terrible fate. (*Tr. p. 7484.*) On 28 March 1941, Brack forwarded to Himmler a report of the results of experiments concerning X-ray castrations in which he stated that mass sterilization by means of X-rays could be carried out without difficulty. Brack estimated that with twenty X-ray installations, sterilization of 3,000 to 4,000 victims could be carried out daily. (*NO–203, Pros. Ex. 161.*) On 12 May 1941 a subordinate of Brandt, SS Sturmbannfuehrer Tiefenbacher, acknowledged receipt of Brack's report and sent a copy to the Chief of the Security Police and SD, Heydrich. (*NO–204, Pros. Ex. 162.*)

The invasion of Russia began in the summer of 1941 and Brack's proposal was not acted on immediately, but on 23 June 1942, when Germany appeared to be on the verge of victory, Brack again wrote to Himmler suggesting the sterilization of Jews who were able to work. Jews unable to work were being exterminated. (*NO–205,*

Pros. Ex. 163.) Himmler wrote to Brack on 11 August 1942 that further experiments to ascertain the effectiveness of X-ray sterilization should be carried out on concentration camp inmates by expert physicians who were to be furnished by Brack's chief, Bouhler. Rudolf Brandt sent copies of this letter to Pohl and Grawitz in order to put Himmler's decision into effect. (*NO–206, Pros. Ex. 164.*) Brack ordered his deputy, Blankenburg, to contact the chiefs of the concentration camps for this purpose. Blankenburg's letter, which communicated this fact to Himmler, was received by Brandt's office on 15 August 1942. (*NO–207, Pros. Ex. 165.*) As a result, experiments on inmates in the Auschwitz concentration camp were carried out by Dr. Schumann. (*NO–208, Pros. Ex. 166.*) One of the victims of these atrocious experiments who, after having been subjected to severe doses of X-ray in the genital area, was castrated by operation in order to determine the effects of the X-ray. (*Tr. p. 541.*) At least 100 involuntary experimental subjects—Poles, Russians, French, and prisoners of war—were used for these experiments. Only young, well-built inmates, in the best of health, were selected for them. (*Tr. pp. 556–7.*) Nearly all the victims of these experiments were exterminated as the severe X-ray burns made them incapable of working. (*Tr. p. 557; Tr. p. 543.*) Brandt admitted in his pretrial affidavit that "sterilization experiments were likewise conducted with X-rays. Dr. Schumann applied this procedure in Auschwitz and sterilized a number of men." (*NO–440, Pros. Ex. 141.*)

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c. Selection from the Argumentation of the Defense

EXTRACT FROM THE FINAL PLEA FOR DEFENDANT GEBHARDT *

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The Sterilization Experiments

The defendant Gebhardt is also accused of special responsibility for these experiments and of participation in them. The evidence, however, proved that this contention of the indictment is not true. First of all it should be pointed out that the life work of the defendant Gebhardt as a physician was based on the principle of helping the physically and mentally affected and to find cures for restoring them as fully qualified members of human society. That was the reason for the establishment of the training camp Hohenaschau in the lower Alps of Bavaria, which was repeatedly mentioned in the evidence. He also made this principle the finding principle of his work as chief physician of the hospital at Hohenlychen. The defendant Gebhardt did not hold the opinion that a sound population policy could be

*Final plea is recorded in mimeographed transcript, 15 July 1947, pp. 10874–10910.

realized by negative measures only; on the contrary, he was convinced that the faculties of physically and mentally handicapped patients ought to be improved by new methods of treatment and their efficiency thus increased. He applied these principles not only in his rehabilitation surgery dealing with injuries but also in the cure of hereditary physical defects. I am here referring to the affidavits of Professor Dr. Iseling, Professor Dr. Buerkle de la Camp, and of the Generalarzt, Dr. von Heuss. (*Gebhardt 7*, *Gebhardt Ex. 1; Gebhardt 8*, *Gebhardt Ex. 2; Gebhardt 9*, *Gebhardt Ex. 3.*) I further refer to the affidavits presented in court as exhibits in volume II of my document books. All these witnesses' affidavits in connection with the defendant's own statements make it obvious that his medical attitude was not based on the principle of negative selection and the destruction of unworthy lives or the prevention of propagation of such human beings but, on the contrary, that he was led by the conviction that these human beings must be helped insofar as medical science was able to help them at all. In their presentation of evidence, the prosecution presented documents concerned with the sterilization experiments. It is obvious from these documents that three different methods of quick and simple sterilization had been considered.

The first experiments were supposed to be carried out with caladium seguinum. The documents presented in this connection proved clearly that the defendant Gebhardt had nothing to do with this matter and that he apparently had no knowledge of it. May I, as a matter of precaution, point out the following: to start with, I wish to refer to the letter of Reich Leader SS Himmler to SS Obergruppenfuehrer Pohl of 10 March 1942, which proves that the experiments with caladium seguinum were supposed to be carried out on criminals whose sterilization had been ordered before that anyway. (*NO–036*, *Pros. Ex. 143.*) In this connection I should like to point out that the German Penal Code expressly provides in certain cases for compulsory sterilization and castration of certain types of criminals. The experiments in themselves, therefore, need not be contrary to the law. From the other documents presented by the prosecution it is, however, to be seen that the plans to carry out sterilizations with caladium seguinum were dropped. It turned out that a cultivation of this plant, or at least of a quantity adequate for experimental purposes was impossible. From the evidence presented by the prosecution it is obvious that it only came to preparatory measures which, according to generally acknowledged principles, cannot be considered punishable.

The second part of the documents deals with sterilization by X-rays. The prosecution presented no evidence from which it can be concluded that the defendant Gebhardt had knowledge of this matter.

Finally, the third part of the documents deals with sterilization experiments conforming with the methods of Professor Dr. Clauberg. From Professor Dr. Clauberg's letter to the Reich Leader SS Himmler dated 30 May 1942 presented by the prosecution as evidence, it is obvious that the initiative for these experiments and the methods used originated exclusively with Professor Clauberg himself. In this connection, it must be pointed out that it was quite obvious that Professor Clauberg's intention was not only to develop the simplest possible method of sterilization, but that he aimed at the establishment of an all-inclusive "Research Institute for Propagation Biology" with due consideration for the demands of a positive population policy. This is demonstrated among other things by the content of Document NO–211, Prosecution Exhibit 169, and the plan for this research institute attached to that document.

In the course of evidence and referring to the sterilization experiments, the prosecution has submitted two file notes of the defendant Rudolf Brandt (*NO–216, Pros. Ex. 170; NO–215, Pros. Ex. 172*) which refer to a discussion with the Reich Leader SS on 7 July 1942 and 8 July 1942, in which the defendant Gebhardt had participated. The evidence has shown that these are two file notes which refer to the same discussion. The evidence, however, has further demonstrated that this was the very discussion during which the conditions were established under which the sulfanilamide experiments were to be carried out. This was the reason why the defendant Gebhardt took part in this discussion at all. The defendant Rudolf Brandt who had written these file notes did not participate in the discussion, and obviously the file notes were made due to some remarks made by Reich Leader SS Himmler to the defendant Brandt following the discussion.

The fact that the defendant Gebhardt had nothing whatsoever to do with these sterilization experiments is also demonstrated by another document which was also introduced as evidence by the prosecution. I refer in this connection to the letter which the defendant Brandt by order of the Reich Leader SS sent to Professor Clauberg on 10 July 1942, that is, a few days after the discussion mentioned. This letter has been submitted to the Tribunal by the prosecution. (*NO–213, Pros. Ex. 171.*) Copies of this letter were sent to SS Obergruppenfuehrer Pohl, to SS Gruppenfuehrer Grawitz in his capacity as Reich Physician SS and to two other offices, but not to the defendant Gebhardt. There can be no doubt that a copy of this letter would have been sent to this defendant, too, if his participation in Clauberg's experiments would have been decided upon or even considered in any form. This seems to be the more impossible, apart from the reasons already given, since the defendant Gebhardt at no time concerned himself with sterilization problems. In this connection it is necessary to refer briefly to the affidavit of the defendant Rudolf Brandt,

of 19 October 1946, which has been introduced by the prosecution and in which it is asserted among other things that "Dr. Karl Gebhardt apparently performed surgical sterilization at the Ravensbrueck camp." (*NO–440, Pros. Ex. 141.*) By the wording of this affidavit it is already demonstrated that here only an assumption is stated. The defendant Rudolf Brandt could not state any facts on which he could base this assumption. In view of the other result of the evidence, and above all because of Rudolf Brandt's own statements, no substantial value can be attached to this affidavit. In these circumstances it will be useless to discuss this question any further, especially also in view of the fact that surgical sterilization offers no problems and that it is difficult to understand what reasons the defendant Gebhardt could have had to work on this field which was quite foreign to him.

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EXTRACTS FROM THE CLOSING BRIEF FOR DEFENDANT POKORNY

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Sterilization with caladium seguinum is impossible as is shown by the following opinions:

1. Opinion of Dr. August Wilhelm Forst of the University of Munich. (*Pokorny 20, Pokorny Ex. 28.*) This opinion states:

"Apart from all these restrictions it appears to me that the whole idea cannot claim to have any actual significance, since it would hardly have been possible to import tropical plants in large numbers to Europe during the war and to work out a rational method for production of the effective substance as well as the initiation of animal experiments on a broad basis. This would have required disproportionally more time than was available up to the time when the war was lost."

2. Opinion of Professor Dr. Helmuth Weese, Director of the Pharmacological Institute of the Medical Academy in Duesseldorf. (*Pokorny 19, Pokorny Ex. 27.*) This opinion states:

"Asked whether it can be assumed that after studying the work of G. Madaus and Dr. E. Koch, 'Studies in Animal Experiments concerning Medical Sterilization by Caladium Seguinum' in the Journal of Experimental Medicine, page 68, 1941, a doctor can come to the conclusion that he can sterilize human beings with caladium seguinum, I have the following comment:

"In the research mentioned it was proved that the authors managed to sterilize rats by feeding them with the juice of caladium seguinum. The proof is not only given by pairing experiments

but by anatomical examinations. In order to achieve this sterilization of female as well as of male rats weighing 150–180 grams, daily doses of ½ cubic centimeter for each rat had to be administered 30–50 times and 40–90 times, respectively, without assuring a certain result. Applied to a human being weighing 70 kilograms this would mean that 200 grams of juice would have to be administered daily.

"It is also proved in these examinations that a large number of the animals treated died from the poisonous effects of the caladium juice. The juice has therefore no specific action on the reproductive system. It is still completely unknown if these injurious complications are caused by the main substance of the juice or any other ingredients.

"Such nonspecific damage to the reproductive system in similar ways but with different substances is also observed in human beings, for example as result of serious abuse of nicotine, morphine, etc., where it also occurs only together with most severe harm to other functions.

"The question arises for every doctor if these experiments on rats can be applied to human beings at all. Madaus and Koch reject them on principle because they merely want to determine if the layman's belief about sterilizing men with large amounts of the caladium extract can be proved in animal experiments.

"A prerequisite for the use of the caladium extract on human beings in our countries would be the cultivation in central Europe of the South American caladium. This appears extremely improbable to any student of natural science with the least experience. Even if it could be cultivated, this would not prove that it would produce the same effective substances in sufficient quantities in our moderate climate.

"Because of the uncertain effect of the caladium extract, its high toxicity, the doubts as to its successful cultivation and use in our moderate climate, I consider it extremely improbable that even a doctor with only average intelligence could in seriousness embark on an experiment to sterilize human beings with caladium extract. No other convincing foundation on which the problem under discussion might be based besides the work of Madaus and Koch is known to me."

3. Opinion of Dr. Friedrich Jung, lecturer at the Pharmacological Institute of Wuerzburg University. (*Pokorny 30*, *Pokorny Ex. 30.*) This opinion states:

"Summary: The findings of Madaus and Koch in their work 'Studies in Animal Experiments concerning Medical Sterilization by Caladium Seguinum' are certainly valid, but they do not prove

anything with regard to a specific sterilizing effect of caladium seguinum; they are rather to be accepted as part of the general poisonous effect of the caladium extract. One can therefore sterilize with caladium or achieve the effect of castration, but not more and not less than one can sterilize by hunger, vitamin deficiency, infections, psychic insults, etc. The experiments of Madaus and Koch are in no way conclusive with regard to human beings. The symptoms on the sexual glands of the experimental animals are only a reversible partial symptom of a long lasting, almost fatal, serious injury to the entire organism, and have no connection with an actual sterilization or castration. Dr. Pokorny's proposals based upon certain completely unfounded conclusions drawn from Madaus' work can be recognized even by slightly educated men as quite apparently utopian."

4. The expert witness of the prosecution, Dr. Friedrich Scheiffart, writes (*NO–3347, Pros. Ex. 546*):

"The experimental sterilization by caladium seguinum is a scientifically interesting but, in practice, an unimportant addition to the group of pharmacological methods of sterilization, which without exception in their totality have not gone beyond a certain theoretical interest."

The prosecution itself states (*Tr. p. 525*):

"The prosecution admits openly that it cannot prove that sterilization was actually brought about through this drug. We have not been able to find anybody who has been actually sterilized by it. But we maintain that it is nevertheless a crime. We strongly hope that no permanent sterilization has been caused in any case with this drug. However it is fortunate that the plants from which this substance was received could not be cultivated to a greater extent."

Final Summary of the Defense:

Nothing could or did occur with the caladium plant as the prosecution admits and as has completely been proved by the expert opinions.

In an affidavit by Karl Tauboeck (*NO–3963, Pros. Ex. 528*) the prosecution referred to the idea that sterilization with caladium seguinum is not an ideal one, but a matter which lies well within the bounds of possibility.

The defense on the other hand contends that this affidavit is lacking in credibility because of the expert opinions. The expert witness of the defense, university lecturer Dr. Friedrich Jung, in his enclosure to the expert opinion (*Pokorny 30, Pokorny Ex. 30*) comments as follows on Karl Tauboeck's affidavit:

"Concerning the person—

"Dr. Tauboeck is, according to his education, a natural scientist

with additional specialized studies in plant chemistry. His medical education is confined to histology, physiology, physiological chemistry, immunology, and pharmacology. By virtue of his education, he calls himself 'a specialist in this field', i. e., in the field of medicamental sterilization. I should like to stress the fact that the title 'specialist' in the field of sterilization presupposes considerable medical and in particular gynecological knowledge, which generally may be acquired only in a complete study of medicine or a penetrating study over several years in the *materia medica.*

"The affidavit of Dr. Tauboeck in several places lacks that critical attitude which is so necessary in scientific questions, especially if they are discussed under oath. Dr. Tauboeck states, for example, under point 5, that caladium seguinum was used as a means of sterilization by the natives of Brazil. He calls this assertion of the Indians, which has been reported in literature, a fact. Under point 6 he calls the reports from Brazil vague, only to assert literally several lines further on that 'the Brazilian natives have already reached castration effects with an arrow wound, i. e., with an intramuscular injection'. This assertion is not proved, and is therefore, in my opinion, out of place in an affidavit. Furthermore Dr. Tauboeck makes a large number of apodictic assertions, for which he brings no direct proof whatever and which he tries to strengthen with the help of absolutely impermissible generalizations of the examples listed under points 7 a–d. Such analogical conclusions are not permissible in a serious scientific explanation, the more so since also the examples brought by him are by no means unobjectionable. Moreover, Dr. Tauboeck, under point 8, draws a conclusion from the experiments by Madaus and Koch, which can only be based on an insufficient knowledge of these experiments. He writes literally: 'This bitter substance was lacking in the plants of the firm Madaus, the use of the pressed juice for feeding was accomplished there without any irritation of the pharyngeal mucous membranes or the tongue.' According to the evidence on hand, Madaus and Koch administered the pressed juice through probing, no doubt in order to avoid this very irritation.

"These findings may be further enlarged upon by attentive reading of Dr. Tauboeck's statement. I, therefore, do not consider Dr. Tauboeck to be qualified as a scientific expert in this question."

* * * * * * *

Conclusion of the Defense:

The affidavit of Karl Tauboeck produced at the end of the case-in-chief cannot alter the fact that it is impossible to sterilize or castrate human beings with caladium seguinum.

d. Evidence

Prosecution Documents

Doc. No.	Pros. Ex. No.	Description of Document	Page
NO–3963	528	Extracts from affidavit of Karl Wilhelm Friedrich Tauboeck, 18 June 1947, concerning the development of, and experiments with sterilization drugs.	710
NO–035	142	Letter from Pokorny to Himmler, October 1941, concerning a sterilization drug to be used against Germany's enemies.	713
NO–036	143	Letter from Himmler, 10 March 1942, to Pohl (initialed by Rudolf Brandt) concerning a sterilization drug and suggesting further research on criminals.	714
NO–038	147	Letter from Rudolf Brandt to Pohl, June 1942, transmitting an inquiry by Himmler as to the progress made with experiments for medical sterilization.	715
NO–046a	148	Letter from Pohl to Himmler, 3 June 1942, concerning the development of a sterilization drug by the firm of Dr. Madaus and Co.	716
NO–046b	149	Letter from Rudolf Brandt to Pohl, 11 June 1942, asking him on behalf of Himmler to set up a large hothouse for the development of a sterilization drug.	717
NO–039	153	Letter from Gund to Himmler, 24 August 1942, concerning research in medical sterilization and development of sterilization drugs.	717
NO–203	161	Covering letter from Brack to Himmler, 28 March 1941, with report on experiments concerning sterilization and castration by X-rays.	719
NO–205	163	Letter from Brack to Himmler, 23 June 1942, proposing sterilization of two to three million Jews.	721
NO–206	164	Letter from Himmler (countersigned by Rudolf Brandt), 11 August 1942, addressed to Brack, concerning Himmler's interest in sterilization experiments.	722
NO–208	166	Letter from Blankenburg to Himmler, 29 April 1944, regarding employment of Dr. Horst Schumann on experiments concerning the influence of X-rays on human genital glands in connection with similar experiments conducted at concentration camp Auschwitz.	723
NO–211	169	Letter from Professor Clauberg to Himmler, 30 May 1942 (referring to a letter from Rudolf Brandt), concerning the urgency of research into biological propagation and sterilization without operation, and draft of a "Research Institute for Biological Propagation."	724
NO–216	170	Memorandum of Rudolf Brandt, July 1942, on a discussion between Himmler, Gebhardt, Gluecks, and Clauberg concerning sterilization experiments conducted on Jewesses.	728

Prosecution Documents—Continued

Doc. No.	Pros. Ex. No.	Description of Document	Page
NO–213	171	Letter from Rudolf Brandt to Clauberg, 10 July 1942, transmitting instructions of Himmler to perform sterilizations on Jewesses at concentration camp Ravensbrueck.	729
NO–212	173	Letter from Professor Clauberg to Himmler, 7 June 1943, reporting on research in connection with the sterilization of women.	730

Testimony

Extract from the testimony of the defendant Viktor Brack---------- 732

TRANSLATION OF DOCUMENT NO–3963 PROSECUTION EXHIBIT 528

EXTRACTS FROM AFFIDAVIT OF KARL WILHELM FRIEDRICH TAUBOECK, 18 JUNE 1947, CONCERNING THE DEVELOPMENT OF, AND EXPERIMENTS WITH STERILIZATION DRUGS

I, Karl Wilhelm Friedrich Tauboeck, swear, depose, and state:

1. I was born on 21 September 1904 in Josefstadt, Czechoslovakia. I have been an Austrian citizen all my life. From 1910 to 1915 I attended the elementary school in Leitmeritz and Pilsen, Czechoslovakia. From 1915 to 1923 I attended the gymnasium (high school) in Pilsen (Czechoslovakia), Ljubljana (Yugoslavia) and Klosterneuburg (Austria). In June 1923 I graduated from the Klosterneuburg high school. From 1923 to 1925 I studied natural science at the University of Vienna, Austria, specializing in plant physiology and chemistry. In 1925 I studied at Kiel (Germany), where I devoted myself mainly to problems of marine biology and bacteriology. From 1926 to 1927 I again studied the above-mentioned natural science subjects in Vienna (Austria). In December 1927 I was made Doctor of Philosophy with special distinction. My thesis dealt with a problem concerning vegetable chemistry—urea in the plant world.

2. From 1928 to 1929 I was assistant in the Institute of Plant Physiology of the University of Vienna, Austria. In this capacity I had to direct the practical studies of the students and was able to carry out my own research in the field of vegetable chemistry. I also continued my studies there in the medical faculty of that University, in several medical subjects, especially in histology, physiology, physiological chemistry, immunology, and pharmacology. These above-mentioned studies made it possible for me to be able to carry out independently tests on the efficacy of drugs in animal experiments.

3. From 1930 to 1945 I was employed as a biochemist and botanist in the biological laboratory of the I. G. Farbenindustrie A. G. at Ludwigshafen/Rhine. I specialized there in drugs with particular effects on the animal and human organisms, respectively. Through this work I invented various new remedies based on biology. In particular I studied the question of animal poisons for many years and thus produced a new remedy for rheumatism. I also worked on the question of the stimulant from the sensitive plant (Mimosa pudica) and similar substances effective in minimum quantities. During the war years I worked on biochemical problems concerning agriculture and as a result of my work produced an improved fertilizer.

The I. G. Farbenindustrie A. G. at Ludwigshafen at Rhine employed several hundred natural scientists and technicians. Since 1937 I was the senior specialist in vegetable chemistry there.

4. In the fall of 1942, I was instructed by the director of my laboratory, Dr. Mueller-Cunradi, to devote my time to research on the effective substance from the plant caladium seguinum (Schweigrohr). At the beginning of November 1942, I was sent to Dr. Schamberger of the Research Institute Grunewald-Berlin for the purpose of obtaining further information. The Research Institute Grunewald was a cover name for a camouflaged SS office. The address was Grunewald-Berlin, Delbrueckstrasse 6. There I was told that this plant was to be used for sterilizing mental patients. In order to obtain further information about the progress of experiments with caladium seguinum which had already taken place, I had to visit the firm Madaus in Dresden-Radebeul, together with Dr. Schamberger and another SS man. This firm had already made animal experiments with this plant and published the results in a medical journal in 1941. I was introduced to the firm Madaus as Dr. Weiss, so that nobody should know that I was an employee of I. G. Farben. The senior pharmacologist of the firm Madaus asked us: You must be a commission from SS Obergruppenfuehrer Pohl, to which the SS men replied "yes". The pharmacologist went on to tell us that a few days previously Pohl himself had visited the firm Madaus together with several other people and had mentioned the especial urgency of this work. Furthermore, while visiting the firm Madaus, I checked all the equipment and experiments in the course of one day. By careful examination of sections of mice and rats and of the histological preparations, I was convinced that the publications of the firm Madaus were perfectly true. By this examination I, as a specialist in this field, gained the conviction that sterilization with caladium seguinum is no Utopia, but something which is quite within the bounds of possibility. On the return journey from Dresden to Berlin, the SS men revealed to me that this research was being carried out on the express order of Reich Leader SS Himmler in order to suppress births among the eastern nations.

After this fact had been revealed to me I was sworn to secrecy. I was furthermore informed at the Research Institute Grunewald-Berlin that the first preparations were to be supplied as soon as possible, as the Reich Leader SS had ordered the testing of the new method on inmates of concentration camps to take place at once.

5. In order to point out the effectiveness and practical possibility of using caladium seguinum as a sterilization drug, I would like first of all to go into the subject of the history of this plant. Before doing so, however, I would like to add that caladium seguinum is not considered a sterilization drug in the ordinary sense of the word, but a castration drug. This is evident from the fact that the experiments carried out by the firm Madaus have clearly shown that a destruction of the sexual glands of the experimental animals occurred which is equivalent to the surgical removal of such glands. Caladium seguinum is a plant which comes from Brazil. As I know from the literature and the publications made by the firm Madaus, this plant has already been used by the Brazilian natives as a means of sterilization of their enemies. It was administered to the enemies either in food or in arrow wounds. By this method of injection by arrows, only relatively small portions of poison gained from caladium seguinum could have been administered, as the wound produced by arrows may be compared with a large intramuscular injection. From this fact, as learned from literature, results the conclusion that this poison, if obtained by the correct process, is effective even in very small doses. This drug is described in literature as secret, which shows that the enemy did not know that he was being sterilized.

6. Inspired by this experience of the Brazilian natives, the firm Madaus carried out their experiments on animals. The results obtained by the firm Madaus which I have seen with my own eyes confirm the effectiveness of caladium seguinum as a means of sterilization for human beings. It was possible to doubt whether the caladium seguinum was actually effective according to the first rather vague reports coming from Brazil before the experiments of the firm Madaus had been carried out. The experiments of Madaus, however, have eliminated all doubts in this direction.

* * * * * * *

11. As a result of all examples and explanations mentioned, I am of the opinion that mass production of a castrating preparation from caladium seguinum in Germany or in the German occupied countries is no dream, but could easily have been put into practice. Another proof of the harmfulness of the caladium poison is the fact that the Madaus examinations confirmed beyond doubt the castrative effect of caladium despite all the shortcomings already described. All this made me realize at once the criminal character

of such research and for this reason did not carry it out as far as my specific order was concerned. The SS, however, took a great interest in this matter. I received my orders as an employee of the I. G. Farbenindustrie from the Chief of the Security Police, first through the camouflaged office of the Research Institute Grunewald-Berlin and later direct. I know, however, that the firm Madaus placed their orders through SS Obergruppenfuehrer Pohl separately and I am not acquainted with the development of this matter.

I have read the above statement consisting of seven pages, in German, and declare it to be the whole truth to my best knowledge and belief. I was given an opportunity of making alterations and amendments in the above statement. I have made this statement of my own free will, under no duress, without promise of reward.

Nuernberg, 18 June 1947. [Signature] Dr. Karl Tauboeck

TRANSLATION OF DOCUMENT NO–035
PROSECUTION EXHIBIT 142

LETTER FROM POKORNY TO HIMMLER, OCTOBER 1941, CONCERNING A STERILIZATION DRUG TO BE USED AGAINST GERMANY'S ENEMIES

To the Reich Commissioner for the Consolidation of German Folkdom,
SS H. Himmler, Chief of Police,
Berlin.

I beg you to turn your attention to the following arguments. I have requested Professor Hoehn to forward this letter to you. I have chosen this direct way to you in order to avoid the slower process through channels and the possibility of an indiscretion in regard to the eventually enormous importance of the ideas presented.

Led by the idea that the enemy must not only be conquered but destroyed, I feel obliged to present to you, as the Reich Commissioner for the Consolidation of German Folkdom, the following:

Dr. Madaus published the result of his research on a *medicinal sterilization* (both articles are enclosed). Reading these articles, the immense importance of this drug in the present fight of our people occurred to me. *If, on the basis of this research, it were possible to produce a drug which, after a relatively short time, effects an imperceptible sterilization on human beings, then we would have a new powerful weapon at our disposal.* The thought alone that the 3 million Bolsheviks, at present German prisoners, could be sterilized so that they could be used as laborers but be prevented from reproduction, opens the most far-reaching perspectives.

Madaus found that the sap of the Schweigrohr (caladium seguinum) when taken by mouth or given as injection to male and also to female animals, after a certain time, produces permanent sterility. The illustrations accompanying the scientific article are convincing.

If my ideas meet your approval, the following course should be taken:

1. Dr. Madaus must not publish any more such articles.
(The enemy listens!)

2. Multiplying the plant. (Easily cultivated in greenhouses!)

[Written notation] Dachau

3. Immediate research on human beings (criminals!) in order to determine the dose and length of the treatment.

4. Quick research of the constitutional formula of the effective chemical substance in order to

5. Produce it synthetically if possible.

As German physician and chief physician of the reserves of the German Wehrmacht, retired [d. R. a. D.], I undertake to keep secret the purpose as suggested by me in this letter.

[stamp] Heil Hitler!
[Signed] Dr. Pokorny
Specialist for skin and venereal diseases, M. U. Dr.

Ad. Pokorny
Komotau
Graben 33
Komotau, October 1941

TRANSLATION OF DOCUMENT NO–036
PROSECUTION EXHIBIT 143

LETTER FROM HIMMLER, 10 MARCH 1942, TO POHL (INITIALED BY RUDOLF BRANDT) CONCERNING A STERILIZATION DRUG AND SUGGESTING FURTHER RESEARCH ON CRIMINALS

The Reich Leader SS
Journal No. 752/5, RF/H.

Fuehrer Headquarters, 10 March 1942
2 W 1.5.

Dear Pohl,

I read Dr. Pokorny's very interesting memorandum and Dr. Madaus' publications on medicinal sterilization. I would ask you to get in touch with Dr. Madaus and to inform him, on my behalf, that he should not publish anything else on these questions of medicinal sterilization, and offer him possibilities of doing research, in

cooperation with the Reich Physician SS, on criminals who would have to be sterilized in any case.

The intended plan of research is, however, to be submitted to me by the office engaged on the subject.

Heil Hitler!

Yours,

[Signed] H. HIMMLER

A copy is forwarded to the Reich Physician SS, SS Gruppenfuehrer Dr. Grawitz with request to take cognizance.

By Order:

[Initial] BR. [BRANDT]
SS Sturmbannfuehrer

TRANSLATION OF DOCUMENT NO–038
PROSECUTION EXHIBIT 147

LETTER FROM RUDOLF BRANDT TO POHL, JUNE 1942, TRANSMITTING AN INQUIRY BY HIMMLER AS TO THE PROGRESS MADE WITH EXPERIMENTS FOR MEDICAL STERILIZATION

The Reich Leader SS
Personal Staff
Journal No. AR/752/5, Bra/Bn.

Fuehrer Headquarters, June 1942

Top Secret

SS Obergruppenfuehrer Pohl
Berlin

Dear Obergruppenfuehrer,

On 10 March 1942, the Reich Leader SS sent you a memorandum written by Dr. Pokorny and the publication of Dr. Madaus on medicinal sterilization. In cooperation with the Reich Physician SS, experiments were to be made accordingly.

The Reich Leader SS inquired today as to how things were progressing. I would appreciate it if I might have some information soon.

Heil Hitler
Yours,
[Signed] R. BRANDT
SS Obersturmbannfuehrer

TRANSLATION OF DOCUMENT NO-046a
PROSECUTION EXHIBIT 148

LETTER FROM POHL TO HIMMLER, 3 JUNE 1942, CONCERNING THE DEVELOPMENT OF A STERILIZATION DRUG BY THE FIRM OF DR. MADAUS AND CO.

Chief of SS, Economics and Administrative Main Office
Ch. Po/Ha

Berlin, 3 June 1942

Subject: Sterilization by means of drugs.

Re: Your letter of 3 October 1942. Journal No. AR. 752/52, RF/H

To the Reich Leader SS
Berlin SW 11, Prinz Albrecht Strasse 8

Dear Reich Leader:

In reference to the above matter, I had a conversation today with E. Koch, Ph. D. and M. D., director of the Biological Institute of Dr. Madaus and Co., at Dresden-Radebeul.

I advised him of your desire to have publications on this subject discontinued for the time being. Dr. Koch will comply with your request.

Furthermore, experiments have reached a dead point because the caladium seguinum grows only in North America and during the war cannot be imported in adequate quantities. Dr. Koch's attempts to grow this plant from seed cultivated in hothouses have been successful, it is true; but the process is very slow and the yield is not sufficient to permit carrying on experiments on a large scale.

Dr. Koch is hopeful that this will be remedied if it is possible for us to obtain permission for him to build a larger hothouse. I promised him this.

For the time being this is the first and only practical step to promote the project.

I shall continue reports periodically.

Heil Hitler!
[Signed] POHL
SS Obergruppenfuehrer and General of the Waffen SS

TRANSLATION OF DOCUMENT NO-046b
PROSECUTION EXHIBIT 149

LETTER FROM RUDOLF BRANDT TO POHL, 11 JUNE 1942, ASKING HIM ON BEHALF OF HIMMLER TO SET UP A LARGE HOTHOUSE FOR THE DEVELOPMENT OF A STERILIZATION DRUG

The Reich Leader SS
Personal Staff, Diary No. 1230/42, Bra/Bu

Fuehrer's Headquarters, 11 June 1942

Re: Medical sterilization.
To SS Obergruppenfuehrer Pohl
Berlin

Dear Obergruppenfuehrer,

I have informed the Reich Leader SS of your letter of 3 June 1942. He asks you to see to it without fail that a large hothouse is set up as soon as possible for Dr. Koch. He considers the experiments extremely important.

The Reich Leader SS asks you to continue to send in further reports.

Heil Hitler
[Signed] B.
SS Obersturmbannfuehrer

TRANSLATION OF DOCUMENT NO-039
PROSECUTION EXHIBIT 153

LETTER FROM GUND TO HIMMLER, 24 AUGUST 1942, CONCERNING RESEARCH IN MEDICAL STERILIZATION AND DEVELOPMENT OF STERILIZATION DRUGS

Secret

The Deputy Gauleiter of Lower Danube [Lower Austria]

Vienna, 9, Wasagasse 10, 24 August 1942
Ge/Schd—310/42 g

To: The Reich Leader SS Pg. Heinrich Himmler
Berlin SW 1, Prinz Albrecht Strasse 8

Sir,

At the orders of Gauleiter Dr. Jury, his staff have hitherto busied themselves especially with the problems of population, racial policy, and antisocial elements. Since the prevention of reproduction by the congenitally unfit and racially inferior belongs to the duties of our National Socialist racial and demographic policy, the present Director of the District Office for Racial Policy, Gauhauptstellenleiter Dr.

Fehringer, has examined the question of sterilization and found that the methods so far available, castration and sterilization, are not sufficient in themselves to meet expectations. Consequently, the obvious question occurred to him whether impotence and sterility could not be produced in both men and women by the administration of medicine or injections. So he came to the studies of the Biological Institute of Dr. Madaus, in Dresden-Radebeul, on animal experiments for medical sterilization, which became accessible to him through the Madaus Annual Report, IVth year, 1940, and are of the greatest interest for our demographic policy. Madaus and Koch found that caladium sequinum used in homeopathic doses, that is, administered in infinitesimal quantities, favorably affects impotence, sterility, and frigidity (sexual indifference), so that clinical and medical research should not proceed without regard to this fact. It was established by an extensive series of experiments on rats, rabbits, and dogs that, as the result of the administration or injection of caladium extract, male animals became impotent and females barren, and the differences in effect of the various methods of applying the drug could be seen. From the animal experiments, it seems that a permanent sterility is liable to result in male animals and a more temporary one in females.

It is clear that these observations could be of tremendous importance if alterations of potency or fecundity could also be successfully brought about in human beings by the administration of a caladium extract. Research on human beings themselves would, of course, be necessary for this. The director of my race policy office points out that the necessary research and human experiments could be undertaken by an appropriately selected medical staff, basing their work on the Madaus animal experiments in cooperation with the pharmacological institute of the Faculty of Medicine of Vienna, on the persons of the inmates of the gypsy camp of Lackenbach in Lower Danube.

It is quite clear that such research must be handled as a nationally important secret matter of the most dangerous character, because enemy propaganda could work tremendous harm all over the world by the knowledge of such research, should it come by such knowledge.

Since these considerations are only a theory, the fundamental accuracy of which has already been established by animal experiments and the possibility of the application of which to human beings is highly probable, a mere indication only can be given of the prospects of the possibility of the sterilization of practically unlimited numbers of people in the shortest time and in the simplest way conceivable.

In this connection, I may perhaps point out that it would surely be worth while to study the old cults and the knowledge of their priests concerning the promotion and prevention of human potency

and fecundity. Primitive, primeval populations which are close to nature had, and still have, a very extensive knowledge of this subject without these things being known to science. It is known, for instance, that the natives of South America attempted to destroy the potency of their enemies by administering caladium seguinum to them.

I should be particularly grateful to you if you would give me your opinion in this respect when the occasion arises, or even order a concrete working plan to be submitted to you. Gauleiter Dr. Jury would personally have approached you with this plan were he not at present away on a vacation.

Heil Hitler!
Yours faithfully,
[Signed] K. GUND
SS Oberfuehrer

TRANSLATION OF DOCUMENT NO–203
PROSECUTION EXHIBIT 161

COVERING LETTER FROM BRACK TO HIMMLER, 28 MARCH 1941, WITH REPORT ON EXPERIMENTS CONCERNING STERILIZATION AND CASTRATION BY X-RAYS

Viktor Brack
Oberdienstleiter

Berlin, 28 March 1941

To the Reich Leader SS and Chief of the German Police
Berlin SW 11, Prinz Albrecht Str. 8
H. H. [Handwritten initials]

Top Secret

[Handwritten]: 1 read
2+
5 May 41

Dear Reich Leader:

Enclosed herewith for your information is the result of the investigations into the possibility of sterilization or castration, respectively, by means of X-rays. I request your instructions as to what further theoretical or practical steps, if any, are to be taken in this matter.

Heil Hitler!
[SIGNED] BRACK

Enclosure

The experiments in this field are concluded. The following result can be considered as established and adequately based on scientific research:

If any persons are to be sterilized permanently, this result can only be attained by applying X-rays in a dosage high enough to produce castration with all its consequences, since high X-ray dosages destroy the internal secretion of the ovary, or of the testicles, respectively. Lower dosages would only temporarily paralyze the procreative capacity. The consequences in question are for example the disappearance of menstruation, climacteric phenomena, changes in capillary growth, modification of metabolism, etc. In any case, attention must be drawn to these disadvantages.

The actual dosage can be given in various ways, and the irradiation can take place quite imperceptibly. The necessary local dosage for men is 500–600 r, for women 300–350 r. In general, an irradiation period of 2 minutes for men, 3 minutes for women, with the highest voltage, a thin filter and at a short distance, ought to be sufficient. There is, however, a disadvantage that has to be put up with: as it is impossible unnoticeably to cover the rest of the body with lead, the other tissues of the body will be injured, and radiologic malaise, the so-called "Roentgenkater", will ensue. If the X-ray intensity is too high, those parts of the skin which the rays have reached will exhibit symptoms of burns—varying in severity in individual cases—in the course of the following days or weeks.

One practical way of proceeding would be, for instance, to let the persons to be treated approach a counter, where they could be asked to answer some questions or to fill in forms, which would take them 2 or 3 minutes. The official sitting behind the counter could operate the installation in such a way as to turn a switch which would activate the two valves simultaneously (since the irradiation has to operate from both sides). With a two-valve installation about 150–200 persons could then be sterilized per day, and therefore, with 20 such installations as many as 3,000–4,000 persons per day. In my estimation a larger daily number could not in any case be sent away for this purpose. As to the expenses for such a two-valve system, I can only give a rough estimate of approximately 20,000–30,000 RM. Additionally, however, there would be the cost of the construction of a new building, because adequately extensive protective installations would have to be provided for the officials on duty.

In summary, it may be said that, having regard to the present state of radiological technique and research, mass sterilization by means of X-rays can be carried out without difficulty. However, it seems to be impossible to do this in such a way that the persons con-

cerned do not sooner or later realize with certainty that they have been sterilized or castrated by X-rays.

[Signed] Brack

TRANSLATION OF DOCUMENT NO–205
PROSECUTION EXHIBIT 163

LETTER FROM BRACK TO HIMMLER, 23 JUNE 1942, PROPOSING STERILIZATION OF TWO TO THREE MILLION JEWS

Viktor Brack
SS Oberfuehrer

Berlin, W 8, Voss-Strasse 4, 23 June 1942
[Initial] HH

Top Secret

To the Reich Leader SS and Chief of the German Police
Heinrich Himmler,
Berlin SW 11, Prinz Albrecht Str. 8

Dear Reich Leader,

On the instructions of Reich Leader [Reichsleiter] Bouhler I placed some of my men—already some time ago—at the disposal of Brigadefuehrer Globocnik to execute his special mission. On his renewed request I have now transferred additional personnel. On this occasion Brigadefuehrer Globocnik stated his opinion that the whole Jewish action should be completed as quickly as possible so that one would not get caught in the middle of it one day if some difficulties should make a stoppage of the action necessary. You, yourself, Reich Leader, have already expressed your view, that work should progress quickly for reasons of camouflage alone. Both points which in principle arrive at the same result are more than justified as far as my own experience goes; nevertheless would you kindly allow me to submit the following argument:

Among 10 millions of Jews in Europe there are, I figure, at least 2–3 millions of men and women who are fit enough to work. Considering the extraordinary difficulties the labor problem presents us with, I hold the view that those 2–3 millions should be specially selected and preserved. This can, however, only be done if at the same time they are rendered incapable to propagate. About a year ago I reported to you that agents of mine had completed the experiments necessary for this purpose. I would like to recall these facts once more. Sterilization, as normally performed on persons with

hereditary diseases, is here out of the question, because it takes too long and is too expensive. Castration by X-ray however is not only relatively cheap, but can also be performed on many thousands in the shortest time. I think, that at this time it is already irrelevant whether the people in question become aware of having been castrated after some weeks or months once they feel the effects.

Should you, Reich Fuehrer, decide to choose this way in the interest of the preservation of labor, then Reichsleiter Bouhler would be prepared to place all physicians and other personnel needed for this work at your disposal. Likewise he requested me to inform you that then I would have to order the apparatus so urgently needed with the greatest speed.

Heil Hitler!

Yours,

[Signed] VIKTOR BRACK

TRANSLATION OF DOCUMENT NO–206
PROSECUTION EXHIBIT 164

LETTER FROM HIMMLER (COUNTERSIGNED BY RUDOLF BRANDT), 11 AUGUST 1942, ADDRESSED TO BRACK, CONCERNING HIMMLER'S INTEREST IN STERILIZATION EXPERIMENTS

The Reich Leader SS
1314/42 [Handwritten]

XIa/126 [Handwritten]
11 August 1942
Figure 11—[Handwritten]

SS Senior Col. (SS Oberfuehrer) Brack
Berlin W 8 Voss-Strasse 4

Field Headquarters

Top Secret

4 copies
4th copy

Dear Brack:

It is only today that I have the opportunity of acknowledging the receipt of your letter of 23 June. I am positively interested in seeing that sterilization by X-rays is tried out at least once in one camp in a series of experiments.

I will be very much obliged to Reichsleiter Bouhler if, to begin with, he would place the expert physicians for the series of experiments at our disposal.

I will mail a copy of this letter to the Reich Physician SS and to the competent Chief of the Main Office for concentration camps.

Heil Hitler!

Yours,

[Signed] H. Himmler

SS Obergruppenfuehrer Pohl
SS Gruppenfuehrer Dr. Grawitz
For information.
By order

[Handwritten] Br.
SS Obersturmbannfuehrer

[Stamp] 11 August 1942

TRANSLATION OF DOCUMENT NO–208
PROSECUTION EXHIBIT 166

LETTER FROM BLANKENBURG TO HIMMLER, 29 APRIL 1944, REGARDING EMPLOYMENT OF DR. HORST SCHUMANN ON EXPERIMENTS CONCERNING THE INFLUENCE OF X-RAYS ON HUMAN GENITAL GLANDS IN CONNECTION WITH SIMILAR EXPERIMENTS CONDUCTED AT CONCENTRATION CAMP AUSCHWITZ

Chancellery of the Fuehrer of the NSDAP
File No: IIa/Kt.

Berlin W 8, Vosstrasse 4, 29 April 1944
Telephone No.: local 120054
Long distance 126621

Top Secret

To the Reich Leader SS and Chief of the German Police, Heinrich Himmler
Berlin SW 11, Prinz Albrecht Strasse 9

Dear Reich Leader!

By order of Reich Leader (Reichsleiter) Bouhler I submit to you as an enclosure a work of Dr. Horst Schumann on the influence of X-rays on human genital glands.

Previously you have asked Senior Colonel [Oberfuehrer] Brack to perform this work, and you supported it by providing the adequate material in the concentration camp Auschwitz. I point especially to the 2d part of this work, which shows that by those means a castration of males is almost impossible or requires an effort which does not pay. As I have convinced myself, operative castration requires

not more than 6 to 7 minutes, and therefore can be performed more reliably and quicker than castration by X-rays.

Soon I shall be able to submit a continuation of this work to you.

Heil Hitler!

[Handwritten] Your devoted,

[Signed] BLANKENBURG

Enclosure

TRANSLATION OF DOCUMENT NO-211
PROSECUTION EXHIBIT 169

LETTER FROM PROFESSOR CLAUBERG TO HIMMLER, 30 MAY 1942 (REFERRING TO A LETTER FROM RUDOLF BRANDT), CONCERNING THE URGENCY OF RESEARCH INTO BIOLOGICAL PROPAGATION AND STERILIZATION WITHOUT OPERATION, AND DRAFT OF A "RESEARCH INSTITUTE FOR BIOLOGICAL PROPAGATION"

Professor C. Clauberg, M. D. Chief Physician of the Gynecological Clinics of the Miners' (Knappschaft) Hospital and of the St. Hedwig Hospital.

Koenigshuette, Upper Silesia, 30 May 1942
Telephone 409-31
[Handwritten]
Wednesday 8 July

To the Reich Leader SS Heinrich Himmler Through SS Obergruppenfuehrer and General of the Police Schmauser

[Handwritten]
discussed H. H. [Heinrich Himmler]

Dear Reich Leader!

In answer to my letter of 5 June 1941 "concerning the Research Institute for Biological Propagation" I received at that time by return mail the answer of your personal adjutant, SS Sturmbannfuehrer Brandt, dated 19 June 1941 saying that you, Reich Leader, would come back to my expose as soon as possible. Without any doubt the far more important events of the war which happened shortly afterwards prevented this.

If I may remind you briefly, the continuation of my work had been rendered impossible because of the problem of carrying out the procurement of female concentration camp inmates. On the occasion of a scientific discussion with the Stabsfuehrer of your office here, SS Obersturmbannfuehrer Dr. Arlt, I also happened to speak about my research activities in the field of biological propagation. Dr. Arlt told me then that the one person in Germany today who would be particularly interested in these matters and who would be able to

help me would be you, most honorable Reich Leader. In his capacity as a member of the SS and Stabsfuehrer of your office here, I then told him briefly that I had already submitted this matter to you.

After this discussion, I most obediently take the liberty of asking you to make it possible for me to carry out these tasks here in Upper Silesia.

In order to explain what would be necessary at the moment—that is, at least for the time being—the two most urgent questions and fundamental problems should be stated briefly once more.

A. In the question of the positive population policy, the eventual or most probable importance of agriculture for the female capacity for propagation demands clarification. This is to be thoroughly probed and tested by experiments on animals, namely, on the experimental animal which is proverbially most fertile and at the same time variable in its fertility—the rabbit. The question is whether good general nutrition with food obtained through intensive farming can reduce fertility, and if this should be the case, what factor (positive or negative) is responsible.

B. In the question of the negative population policy the situation now is such that from animal experiments (in which I have demonstrated the possibility of sterilization without operation) we must proceed to the first experiments on human beings.

For that purpose the following is necessary:

With ref. to A. *Problem of fertility and agriculture.*

1. Land—that is, as much "untouched", "wild" or hitherto "badly" farmed land as possible. For the first animal experiments to be conducted at least 10 Morgen [Morgen = ⅔ of an acre] would be needed.
2. Personnel to till the land.
3. Animal material—that is, a few hundred female rabbits and the corresponding number of males necessary.
4. Animal hutches and shelters.
5. Persons to attend and guard the animals.

With ref. to B. *Sterilization without operation.*

1. Occasional special billeting for 5 to 10 women (single rooms or rooms for two persons) corresponding to the conditions of sick rooms.
2. Special X-ray apparatus with installation and accessories.
3. Smaller outfit of instruments and material.

Reich Leader! Without wishing to anticipate your decision, I am taking the liberty of proposing that the experiments necessary for A and B be carried out at the Auschwitz concentration camp and that the facilities there be used. As I already told you in the course of our conversation, I would be very much pleased to work under you as head of an experimental institute, directed exclusively by you.

I believe that in view of the procurement of the land, the necessary animals, the attending personnel, and the human material to be pro-

vided, an annex to your camp in Upper Silesia would offer the best facilities. Cash would be needed only for the procurement of—
With ref. to A.

1. *Animal material.*
2. *Material for the animals' stables and shelters.*
3. *A conscientious working person to attend them.*

With ref. to B.

4. *Special accommodations for 5 to 10 female camp inmates undergoing experiments.*
5. *Eventually a special X-ray installation.*
6. *Smaller outfit of instruments and material.*

Reich Leader! The explanations and dispositions made here are related to the fact that the most necessary and most urgent means for solution of this problem should at once be created and set in motion. My suggestions are absolutely adapted to the present times and attempt to meet the circumstances. As one problem arises from the other or—I should rather say—as many further problems will arise, the ideal pattern of such a "Research Institution of the Reich Leader SS for Biological Propagation" the establishment of which is to be considered, would present itself as an entity, on the one hand far greater in scope, and on the other hand more concentrated and closely knit in shape. A short sketch is enclosed as a suggestion for that purpose. This suggestion is to demonstrate the possibility of realization of all the thoughts discussed and submitted to you.

Heil Hitler!

Yours most obediently,

[Signed] Prof. Clauberg.

Draft of a "Research Institute for Biological Propagation"

The center from which all ideas start, all problems are raised and their execution directed, and finally turned over into practical use, is and remains the clinic. It must be an obstetric clinic at the same time. For the problems (which are mostly of a hormonal nature) do not merely extend into practical gynecology and obstetrics but also reach deeply into them and remain most closely connected with pregnancy and obstetrics as well. These problems are just as unlimited and therefore must necessarily be solved step by step, as they are proving to be successful for obstetrics also in the future.

In this clinic the possibility must be provided—

a. for most intensive treatment of women hitherto sterile but desirous of bearing children and for applying and testing of newly gained experiences in cases hitherto seemingly hopeless.

b. to evaluate the method of sterilization without operation (bloodless sterilization) on women unworthy of propagation and to use this method continually after it is finally proved efficient.

Attached to this clinic there is to be—

c. a laboratory for extensive animal experiments, which will always serve as a basis for further research.

There should also be incorporated in this research station—

d. an experimental farm as a basis for the solution of the questions of "agriculture and fertility," that is—

1. far reaching nutrition experiments on animals, and
2. far reaching nutrition experiments on human beings (female camp inmates).

Sketch enclosed.

[Handwritten] 30 May 1942.

CLAUBERG

"*Research Institute for Biological Propagation*"

Experimental Farm—

a. For far reaching nutrition experiments on the animal.

Laboratory for further experimental research on animals.

b. For far reaching nutrition experiments on human beings. (Special production of food for female camp inmates.)

Clinic for gynecology and obstetrics

Clinical and Polyclinical Department—

a. Treatment of sterile women desired to propagate.

b. Further clinical research on cases of sterility hitherto seemingly hopeless.

Clinical department—

For sterilization without operation (bloodless sterilization) on women (women unworthy of propagation or women whose propagation is not desirable—at first to test method without operation, later for current use).

TRANSLATION OF DOCUMENT NO–216
PROSECUTION EXHIBIT 170

MEMORANDUM OF RUDOLF BRANDT, JULY 1942, ON A DISCUSSION BETWEEN HIMMLER, GEBHARDT, GLUECKS, AND CLAUBERG CONCERNING STERILIZATION EXPERIMENTS CONDUCTED ON JEWESSES

Fuehrer Headquarters, July 1942

Top Secret

1 copy

On 7 July 1942 a discussion took place between the Reich Leader SS, SS Brigadefuehrer Professor Dr. Gebhardt, SS Brigadefuehrer Gluecks, and SS Brigadefuehrer Clauberg, Koenigshuette. The topic of the discussion was the sterilization of Jewesses. The Reich Leader SS has promised SS Brigadefuehrer Professor Clauberg that Auschwitz concentration camp will be at his disposal for his experiments on human beings and animals. By means of some fundamental experiments, a method should be found which would lead to sterilization of persons without their knowledge. The Reich Leader SS wanted to get another report as soon as the result of these experiments was known, so that the sterilization of Jewesses could then be carried out in actuality.

It should also be examined, preferably in cooperation with Professor Dr. Hohlfelder, an X-ray specialist in Germany, what way sterilization of men could be achieved by X-ray treatment.

The Reich Leader SS called the special attention of all gentlemen present to the fact that the matter involved was most secret and should be discussed only with the officers in charge and that the persons present at the experiments or discussions had to pledge secrecy.

[Signed] BRANDT
SS Obersturmbannfuehrer.

TRANSLATION OF DOCUMENT NO–213
PROSECUTION EXHIBIT 171

LETTER FROM RUDOLF BRANDT TO CLAUBERG, 10 JULY 1942, TRANSMITTING INSTRUCTIONS OF HIMMLER TO PERFORM STERILIZATIONS ON JEWESSES AT CONCENTRATION CAMP RAVENSBRUECK

Reich Leader SS Personal Staff
Journal Number 1266/42, Bra/Dr.

[Handwritten]

Returned 31 October 1942 by Pol. Administration K.

Fuehrer Headquarters, 10 July 1942

Top Secret

[Handwritten]

Original handed to G.

6 copies—6th copy

1. Professor Clauberg
Koenigshuette.

[Handwritten]

W 1–10
1–5–43
10–7–43

Dear Professor!

Today the Reich Leader SS charged me with transmitting to you his wish that you go to Ravensbrueck after you have had another talk with SS Obergruppenfuehrer Pohl and the camp physician of the women's concentration camp Ravensbrueck, in order to perform the sterilization of Jewesses according to your method.

Before you start your job, the Reich Leader SS would be interested to learn from you how long it would take to sterilize a thousand Jewesses. The Jewesses themselves should not know anything about it. As the Reich Leader SS understands it, you could give the appropriate injections during a general examination.

Thorough experiments should be conducted to investigate the effect of the sterilization largely in a way that you find out after a certain time, which you would have to fix, perhaps by X-rays, what kind of changes have taken place. In some cases a practical experiment might be arranged by locking up a Jewess and a Jew together for a certain period and then seeing what results are achieved.

I ask you to let me know your opinion about my letter for the information of the Reich Leader SS.

Heil Hitler!

[Signed] BRANDT

SS Obersturmbannfuehrer

2. To SS Obergruppenfuehrer Pohl, Berlin.

[Handwritten] delivered to Boemer

Please acknowledge. SS Obersturmbannfuehrer Koegel also received a copy for the information of the camp physician. Moreover the Reich Physician SS and the Reich Security Main Office (RSHA) received a copy.

[Signed] BRANDT

SS Obersturmbannfuehrer

3. To SS Gruppenfuehrer Grawitz, Reich Physician SS.

Please acknowledge.

[Signed] BRANDT

SS Obersturmbannfuehrer

4. To SS. Obersturmbannfuehrer Koegel, WVHA.

Please acknowledge and inform the camp physician.

[Signed] BRANDT

SS Obersturmbannfuehrer

5. To the Reich Security Main Office (RSHA), Berlin.

SS Sturmbannfuehrer Guenther, IV B 4 (Department for Jews).

[Handwritten] SS GRUF. MUELLER

Please acknowledge.

[Initialed] BR.

SS Obersturmbannfuehrer

TRANSLATION OF DOCUMENT NO–212
PROSECUTION EXHIBIT 173

LETTER FROM PROFESSOR CLAUBERG TO HIMMLER, 7 JUNE 1943, REPORTING ON RESEARCH IN CONNECTION WITH THE STERILIZATION OF WOMEN

Professor Dr. C. Clauberg,

Chief Physician of the Clinics for Women of the Miners' (Knappschaft) Hospital and the St. Hedwig Hospital

Koenigshuette O. S., 7 June 1943

Telephone: 409–31

Secret

To the Reich Leader SS

Heinrich Himmler

Berlin

Dear Reich Leader,

Today I am fulfilling my obligation to report to you from time to time about the state of my research work. In doing this I am, as

before, adhering to the procedure to report only if the matter is essential. The fact that, after my most recent interview in July 1942, I could not do so before today is due to temporary difficulties against which I myself was powerless and with which I could not bother you, Reich Leader. I mention as an example that only since February 1943 am I in possession of an X-ray installation, which is of great value to my special research. In spite of the short period of actually only 4 months, it is already today possible to report to you the following:

The method I contrived to achieve the sterilization of the female organism without operation is as good as perfected. It can be performed by a single injection made through the entrance of the uterus in the course of the customary gynecological examination known to every physician.—If I say that the method is "as good as perfected," this means:

1. Still to be worked out are only minor improvements of the method.

2. Already today it could be put to practical use in the course of our *regular* eugenic sterilization and could thus replace the operation.

As to the question which you, Reich Leader, asked me almost one year ago, i. e., how much time would probably be required to sterilize 1,000 women by using this method. Today I can answer you with regard to the future as follows:

If my researches continue to have the same results as up to now—and there is no reason to doubt that—then the moment is not far off when I can say:

> "*One* adequately trained physician in *one* adequately equipped place, with perhaps 10 assistants (the number of assistants in conformity with the speed desired) *will most likely be able to deal with several hundred, if not even 1,000 per day.*"

Please permit me to postpone my report about the other part of my researches (positive population policy) because it will take some time until something decisive can be said in this field.

Reich Leader! The main reason for my reporting to you today, shortly before the possibility of even more final results, is the following:

I know that the settlement of the last part of this particular complex of problems—in contrast to the external forces which determined the progress so far—depends *now* almost entirely on me. In this connection, several minor but nevertheless fundamental changes would be necessary which only you, my dear Reich Leader, can personally direct and order. I had hoped that I would be able to give you personally a short description of these requirements in the event of a visit to Upper Silesia. Since I have not had this opportunity, I am asking you for your decision today.

In addition I should like to make a further request. It was SS Brigadefuehrer *Dr. Blumenreuter* who finally managed to get me the one suitable X-ray installation. I am in urgent need of another installation of the same kind, and he informed me in February that he had another one stored in Berlin. He was ready to deliver it to me if I would secure your approval.

May I ask you, Reich Leader, for this approval?

Heil Hitler!

[Signed] CLAUBERG

EXTRACT FROM THE TESTIMONY OF THE DEFENDANT VIKTOR BRACK*

DIRECT EXAMINATION

* * * * * * *

DR. FROESCHMANN: What plans are you talking about?

DEFENDANT BRACK: The plans to exterminate the Jews which I told you about before. Having known them and having been in the Party Chancellery in the course of this conversation when I told Himmler that Grafeneck was to be abandoned, Himmler also told me of communications he had received from Poland, according to which the Jews there were using the temporary impotence of the Polish government to strengthen their own position and Himmler said something had to be done about this. He said something had to be undertaken to stop this because through the mixing of blood in the Polish Jews with that of the Jews from Western Europe a much greater danger for Germany was arising than even before the war, and he said it was his intention to sterilize the Jews according to reliable methods, according to a procedure which would permit mass sterilization. Operative sterilization was out of the question for one thing because you couldn't do that without leaving some scar. Then he brought up the question, could not this be done with X-ray treatment? However, I didn't know about this for sure, and in fact nobody knew about it, and especially didn't know whether the person in question could be treated without noticing something. Himmler then said that Bouhler had gathered together so many scientists and doctors in the Euthanasia Program, consequently I should try to find out from him what he could tell me about sterilization, and tell him to report to me again.

Q. Well, what was the effect of this communication from Himmler on you?

A. This made a great impression on me. I believed that Heydrich could really have been the instigator of all of this.

In my interrogation I told the interrogator that I regarded such a

*Complete testimony is recorded in mimeographed transcript, 7, 8, 9, 12, 13, 14, 15, 16, 19 May 1947, pp. 7413–7772.

plan to exterminate the Jews as unworthy of Germany and its leaders. From what I knew of Himmler it would never have occurred to me that such a destructive idea could have originated in his mind. Be that, however, as it may, whether the idea originated with Heydrich or Bormann, my attitude was opposed to this; and I felt that I was under the obligation to do anything I could to prevent this. If I had raised the least objection to it openly, I would have aroused great suspicion of myself and would have aroused a false reaction in Himmler. Therefore, I had to make the best of a bad job and had to pretend that I agreed with Himmler. I pretended to be willing to clarify the question of mass sterilization through X-ray methods. Many years ago I had been subjected to X–ray treatment for quite a period of time and had discussed with the doctor the effect of X–rays on the human body. Now I remembered from those discussions that the effect of X–rays on the sexual organs is only of slight importance and not lasting. Moreover, I knew that one of my associates was personally acquainted with an X-ray specialist and he told me that this specialist was conducting experiments on the effects of X-rays on the fertility of animals. However, there seemed to be no result.

Q. Mr. President, I present an affidavit of 25 February 1947, by Dr. Martin Zeller, a specialist, born 3 December 1880, living in Munich, signed by him on this same date and certified by myself. (*Brack 26*, *Brack Ex. 31.*) This affidavit contributes to the understanding of this matter now under discussion and I quote:

"I remember distinctly that 10 to 15 years ago I spoke to Viktor Brack about X-ray injuries. Brack was worried that he might develop an X–ray injury; at that time his knee had been X-rayed. When some time afterwards he had rough hands he thought that might be an X-ray burn. I explained to him that no injuries could result from our X–ray examinations since the quantities of radiation used for diagnosis were small and besides, the more distant parts of the body (that is, in the case of a picture of the knee being taken, the hands and genitals) were not in the danger zone under modern technical conditions.

"I also made the remark that even an intentional sterilization by X-ray treatment would, especially in the case of young persons, be difficult to achieve and even then only with a strong dose of prolonged radiation."

And then in paragraph 2 the witness continues:

"It is quite possible that Brack in this way developed the views he brought forward, i. e., that the effect of X-rays upon the sexual organs is negligible, and that the danger of sterilization does not exist at all. The layman will not differentiate between X-ray diagnostics and X-ray therapy."

A. I took this associate into my confidence and told him of my intention to deceive Himmler, if only to gain time. We agreed to deceive Himmler by giving him a certificate that seemed to say that sterilization by X-ray methods was possible and we would thus get him to pursue a false path. Just what was said in this certificate I do not know any longer. At any rate there were no positive results in it so that we couldn't put it to Himmler in this form.

DR. FROESCHMANN: Mr. President, let me remark in this connection, that after great efforts I have succeeded in finding the man who drew up this certificate of which the witness has just been speaking. I have found out his name and address. He lives in the Russian zone and for that reason it was not possible for me to get a copy of that certificate that he drew up at that time. However, I have contacted this doctor and he has declared his readiness to come to Nuernberg and to give me an affidavit, because as he said it, it would be a matter of course that he should help an innocent man if his testimony could do so. He does remember having given this certificate to Brack or to his associates and I ask permission to reserve the right to put this affidavit in evidence as soon as I have it, and when perhaps the doctor has had a chance to speak to the defendant.

PRESIDING JUDGE BEALS: Counsel for defendant Brack may offer the affidavit as soon as it is received so long as it complies with the evidence in the case.

DR. FROESCHMANN: Thank you, your Honor. Witness, please continue.

DEFENDANT BRACK: Naturally, this factor of uncertainty had to be taken into consideration.

Q. What exactly are you speaking of?

A. I am talking about the report we received.

Q. You mean the man who drew up the certificate, the expert?

A. Yes.

PRESIDING JUDGE BEALS: Now, counsel, I don't want you to misunderstand me. I said counsel may offer the affidavit; that means it is offered subject to any objection raised by the prosecution as to the form of the affidavit or its relevancy. Yesterday, the affidavits from Brazil were possibly offered by you because the Tribunal had said that they might be offered. The right to offer simply means offered, subject to objection, and that is not equivalent to saying that the affidavit will be received in evidence but it may be offered. That is the sense in which I have used the word "offer" towards this affidavit.

DR. FROESCHMANN: Yes, your Honor, I understood the President and I shall only submit an affidavit which is in compliance with the regulation of this Tribunal. Would you please continue, Witness?

DEFENDANT BRACK: My collaborator changed the contents of this certificate in such a manner that sterilization becomes apparent as

something possible from a medical point of view. That is exactly what is contained in my affidavit. Thus, this letter dated 28 March 1941, originated with Document NO–203, Prosecution Exhibit 161.

Q. Mr. President, let us reconstruct this letter quite shortly. I shall quote. It is addressed by Brack to Himmler, marked "Top Secret."

"Dear Reich Leader:

"Enclosed I send to you for your information the report of the examination regarding the possibility of an X-ray sterilization or castration. I ask you to tell me whether anything can be done in the matter either theoretically or practically."

That is the covering letter. This covering letter, Witness, in connection with the report which is attached was considered by the prosecution as being a serious suggestion for sterilization and the prosecution in that connection has stated that this needed no comment. What is your attitude toward it?

A. Neither the former nor the latter is correct. I admit that if one reads this letter or report without knowing the connections that impression can be created. I therefore have to attempt to analyze this report in order to explain to the Tribunal what we tried to achieve with this letter. I have to emphasize once more that the entire thing was a maneuver of deceit.

Q. With reference to the report which you attached to this letter (*NO–203, Pros. Ex. 161*) I should like to quote from it a very brief passage:

"Report on experiments concerning X-ray castration.

"The experiments in this field are concluded. The following result can be considered as established and adequately based on scientific research.

"If any persons are to be sterilized permanently, this result can only be attained by applying X-rays in a dosage high enough to produce castration with all its consequences, since high X-ray dosages destroy the internal secretion of the ovary or of the testicles, respectively. Lower dosages would only temporarily paralyze the procreative capacity. The consequences in question are, for example, the disappearance of menstruation, climacteric phenomena, changes in capillary growth, modification of metabolism, etc. In any case, attention must be drawn to these disadvantages.

"The actual dosage can be given in various ways, and irradiation can take place quite imperceptibly. The necessary local dosage for men is 500–600 r, for women 300–350 r. In general, an irradiation period of 2 minutes for men, 3 minutes for women, with the highest voltage, a thin filter, and at a short distance ought to be sufficient. There is, however, a disadvantage that has to be put up with. It is impossible unnoticeably to cover the rest of the body

with lead, the other tissues of the body will be injured, and radiologic malaise, the so-called 'Roentgenkater,' will ensue."

Witness, would you define your attitude toward this letter which I partly read?

A. I was speaking in connection with the talk I had with Himmler in the year of 1941. This becomes apparent from the paragraph "I herewith submit the result of an X-ray examination." It looks now as though in effect experiments had been carried out by scientists, which was not the case. Himmler had to be reassured and that is why we had to emphasize that the experiments had been concluded and the result could be based on scientific work. Of course, we couldn't state the result as being absolutely positive. We had to leave it to Himmler himself to judge it. In the first instance it was our intention to get Himmler off the idea. That is why we chose the formulation which can be seen in that letter—"If any persons are to be sterilized permanently." It meant in effect that this was theoretically possible. At the same time, however, we pointed out that this success cannot be concealed and that phenomena will arise. That obviously was shown by the contents of the certificate itself, and it is emphasized that permanent sterilization makes a high dosage of X-rays necessary. These high dosages would then bring about the effects of castration with all of the accompanying symptoms which would be noticed immediately. If, however, lower dosages were used, you would only have stopped procreative capacity for a short time. We actually said that at the end of the report, namely, that the result of sterilization could be ascertained after a compartively short time but that it was impossible to achieve the results of bringing about sterilization without being noticed, and in this way we thought we could get Himmler to give up that idea.

Q. Now, this was the first part of the letter. Now, let us discuss the second part. I am again referring to the method which you suggested to Himmler. You thought at that time "One practical way of proceeding would be, for instance, to let the persons to be treated approach a counter, where they could be asked to answer some questions or to fill in forms, which take them 2 or 3 minutes. The official sitting behind the counter could operate the installation in such a way as to turn a switch which would activate the two valves simultaneously (since the irradiation is to operate from both sides). With a two-valve installation about 150–200 persons could then be sterilized per day and, therefore, with 20 such installations as many as 3,000–4,000 persons per day. In my estimation a larger daily number could not in any case be sent away for this purpose."

Herr Brack, how could you arrive at this idea of turning switches? This is completely nonunderstandable for a layman.

A. Himmler wanted this procedure to be carried out as simply as possible. Therefore, we had to suggest as simple a method as we could think of. On the other hand, this method increased the uncertainty of directing the rays to the corresponding parts of the body. That is what was discussed by my collaborator with his acquaintance. We suggested this switch method to Himmler with the idea of making this matter as simple as possible and at the same time preventing any active X-ray reaching the body. Furthermore, only 2–3 minutes were suggested as the length of time for these people to be subjected to these X-rays. How we arrived at these 500–600 figures—or 350 r.—I don't know whether they were just invented or whether they were based upon something. I don't know. But looking at it as a whole it contained a number of points that were to demonstrate to Himmler that the whole thing could not be carried out. There is a scientific basis for these suggestions.

DR. FROESCHMANN: Mr. President, in connection with this point I have tried to get an unobjectionable irreproachable certificate for the correctness of what the defendant just stated. I shall get a certificate from a specialist. The man concerned says that this suggestion is absolutely senseless. I had, however, to wait for this certificate because I had to wait for an affidavit from another expert physician. With the permission of the Tribunal, I shall obtain a corresponding certificate from a radiologist who can show that it is credible that this entire suggestion was really scientific nonsense.

A. We had to take into account the possibility that Himmler might accept this proposal in spite of all these difficulties. We knew, however, that the preparation of any such installation would take a long time, for the building, etc. We thought that the war would end very quickly, and as I said before I didn't know there was any threat from the West. And, in case of peace, the Madagascar plan, which had already been rejected, could once more be placed in the foreground. If on the other hand this suggestion was to be accepted and if at that time the war had not yet ended, the carrying out of this experiment on the 100–200 Jews was much less of an evil than Himmler taking the Jews and sterilizing them en masse or doing something worse to them.

Q. Mr. Brack, if I understand you correctly, you're saying that, at that time, you had to make a decision between either killing millions of Jews or choosing the smaller evil by only suggesting this small number which you have mentioned upon whom experiments might be carried out. Is my opinion correct?

A. During my interrogations I designated this dilemma in a way by saying that this was our last way out. But, naturally, when judging these two possibilities one must take into consideration that one

decides upon one possibility and, at the same time, feels an inner justification for doing so. The same way as a troop commander sacrifices a few thousand people somewhere if he can save a hundred thousand somewhere else.

Q. Now, Mr. Brack, in order to finish with this letter I want to say that you have stated the following at the end of that letter, and I quote:

"In summary it may be said that, having regard to the present state of radiological technique and research, mass sterilization by means of X-rays can be carried out without difficulty. However, it seems to be impossible to do this in such a way that the persons concerned do not, sooner or later, realize with certainty that they have been sterilized or castrated by X-rays."

In your covering letter you apparently mentioned your second letter, and I quote:

"I request your instructions as to further theoretical or practical steps if any are to be taken in this matter."

What is the significance of this latter statement?

A. By using this formulation I endeavored to keep control of the development of that matter. I never really counted on the realization of these experiments and I never had any intention of submitting a serious proposal to Himmler which would cause the sterilization of millions of Jews, but if Himmler was to accept this nonsensical proposal I wanted to have his idea delayed as long as possible. If this suggestion had been serious on my part I would have had to be a fanatical Jew hater, and I think I have already proved that I was not such a person.

* * * * * * *

B. Jewish Skeleton Collection

a. Introduction

The defendants Rudolf Brandt and Sievers were charged with criminal responsibility and participation in plans and enterprises, involving the murder of civilians and members of the armed forces of nations at war with the German Reich, and specifically with the murder of 112 Jews for the purpose of completing a skeleton collection for the Reich University at Strasbourg (par. 7 of the indictment). On this charge both defendants were convicted.

The prosecution's summation of the evidence and argumentation on the Jewish skeleton collection is contained in its closing brief against the defendant Sievers. An extract from this brief is set forth below on pages 739 to 741. A corresponding summation of the evidence by the defense has been selected from the closing brief for the defendant

Sievers. It appears below on pages 741 to 747. This argumentation is followed by selections from the evidence on pages 748 to 759.

b. Selection from the Argumentation of the Prosecution

EXTRACT FROM THE CLOSING BRIEF AGAINST DEFENDANT SIEVERS

* * * * * * *

Skeleton Collection

In response to a request by the defendant Rudolf Brandt, on 9 February 1942, Sievers submitted to him a report by Dr. Hirt of the University of Strasbourg on the desirability of securing a collection of Jewish skeletons. (*NO–085, Pros. Ex. 175.*) In this report, Hirt advocated outright murder of "Jewish Bolshevik Commissars" for the procurement of such a collection. He stated:

> "By procuring the skulls of the Jewish Bolshevik Commissars, who personify a repulsive, yet characteristic subhumanity, we have the opportunity of obtaining tangible scientific evidence. The actual obtaining and collecting of these skulls *without* difficulty could be best accomplished by a directive issued to the Wehrmacht in the future to immediately turn over alive all Jewish Bolshevik Commissars to the field police."

These units were to report to a special office which would send out specialists to have photographs and anthropological measurements taken and ascertain the origin, birth date, and other personal data of the victims. Hirt further stated:

> "Following *the subsequently induced death* of the Jew, whose head must not be damaged, he will separate the head from the torso and will forward it to its point of destination in a preserving fluid in a well-sealed tin container especially made for this purpose. On the basis of the photos, the measurements, and other data on the head and, finally, the skull itself, comparative anatomical research, research on racial classification, pathological features of the skull formation, form and size of the brain, and many other things can begin. In accordance with its scope and tasks, the new Reich University of Strasbourg would be the most appropriate place for the collection of and research upon these skulls thus acquired." [Emphasis supplied.]

On 27 February 1942, Brandt informed Sievers that Himmler would support Hirt's work and would place everything necessary at his disposal. Brandt requested Sievers to inform Hirt accordingly and to report again on Hirt's work. (*NO–090, Pros. Ex. 176.*)

Hirt's murderous and inhuman plan was carried out in a way which differed but slightly from the suggestion made in his preliminary report. (*NO–085, Pros. Ex. 175.*) The proof has shown that it was decided to preserve the whole skeletons of the victims rather than merely the skulls. On 2 November 1942 Sievers requested Brandt to make the necessary arrangements with the Reich Security Main Office for providing 150 Jewish inmates from Auschwitz to carry out this plan. (*NO–086, Pros. Ex. 177.*) On 6 November Brandt informed Adolf Eichmann, the Chief of Office IV-B-4 (Jewish affairs) of the Reich Security Main Office to put everything at Hirt's disposal which was necessary for the completion of the skeleton collection. (*NO–089, Pros, Ex. 179.*)

From Sievers letter to Eichmann of 21 June 1943, it is apparent that SS Hauptsturmfuehrer Beger, a collaborator of the Ahnenerbe Society, carried out the preliminary work for the assembling of the skeleton collection in the Auschwitz concentration camp on 79 Jews, 30 Jewesses, 2 Poles, and 4 Asiatics. In this letter, Sievers stated that Beger had to interrupt his work because of the danger of infectious diseases in the camp. Sievers requested that the inmates on whom Beger had carried out this work be transferred to the Natzweiler concentration camp because further activities in Auschwitz were impossible due to the danger of infection. Special accommodation for the thirty women was to be provided in the Natzweiler concentration camp "*for a short period*". [Emphasis added.] (*NO–087, Pros. Ex. 181.*)

The statement of the camp commandant of the Natzweiler concentration camp, SS Hauptsturmfuehrer Josef Kramer, reveals that approximately 80 inmates of the Auschwitz concentration camp, among them females, were transferred to the Natzweiler concentration camp and killed there by gas at the request of Hirt in the beginning of August 1943. A special gas chamber had been built for this purpose. The corpses of the victims were sent in three shipments to the Anatomical Institute of Hirt in Strasbourg University. (*NO–807, Pros. Ex. 185.*) This evidence is corroborated by the testimony of the witness Henripierre. He testified that in the beginning of August 1943, the principal autopsy technician of the Anatomical Institute, Bong, received the order from Hirt to prepare the tanks in the cellar of the Institute for approximately 120 corpses. At intervals of a few days, three shipments of corpses, 30 female, 30 male, and 26 male, arrived by truck from an unknown place. All of these victims were Jewish. These corpses were preserved in the cellar of the Anatomical Institute in the tanks prepared by Bong. (*Tr. pp. 712–4.*) See also the affidavit of Wagner. (*NO–881, Pros. Ex. 280.*) As proved by the

Sievers' diary, Beger was ordered to prepare plaster casts of the victims. (*3546–PS, Pros. Ex. 123.*)

Early in September 1944, when the Allied armies were threatening Strasbourg, Sievers approached the defendant Brandt with the request for instructions as to what should be done with the Jewish bodies which were still stored in the tanks in the cellar of the Anatomical Institute. He informed Brandt that Hirt would be able to "deflesh" the corpses and thus render them unrecognizable, but in this case part of the work would have been done in vain "and it would be a great scientific loss for this *unique collection* because casts could not be made afterwards. The skeleton collection is not conspicuous. Viscera could be declared as remnants of corpses, apparently left in the Anatomical Institute by the French and ordered to be cremated." Sievers requested a directive from Brandt whether the collection should be preserved, partly dissolved, or completely dissolved. (*NO–088, Pros. Ex. 182.*)

From the memorandum of SS Hauptsturmfuehrer Berg, and his telephone conversation with Sievers on 15 October 1944, it is apparent that it was first decided to destroy the evidence of these brutal crimes, but with a temporary improvement in the military situation, this decision was rescinded. Sievers informed Berg on 21 October 1944 that, in compliance with the orders he had received previously, the dissolution of the collection had been completed. (*NO–091, Pros. Ex. 183.*) But such was not the case. Hirt had ordered Bong and his assistant, Meyer, to cut up the 86 corpses and have them cremated in the Strasbourg crematorium, but these two men alone were unable to carry out this enormous task. A number of corpses remained undissected and were left in the tanks, together with partially dissected corpses, in order to create the impression that they were used for normal anatomical research. (*Tr. p. 715; NO–881, Pros. Ex. 280.*)

The pictures of these corpses and of the gas chambers in the Natzweiler concentration camp, where the victims of the Jewish skeleton collection were murdered, taken by the French authorities after the liberation of Strasbourg, tell the grim story of this mass murder more vividly than witnesses and documents ever could. (*NO–483, Pros. Ex. 184; NO–807, Pros. Ex. 185.*)

* * * * * * *

c. Selection from the Argumentation of the Defense

EXTRACTS FROM THE CLOSING BRIEF FOR DEFENDANT SIEVERS

* * * * * * *

In 1943 a collection of Jewish skeletons was set up in the Anatomy Department of the Reich University of Strasbourg according to plans

which had been prepared in 1941 by Himmler and the Director of this Anatomy Department, Professor Dr. Hirt. The skeletons were to be obtained by selecting the required number of persons in the concentration camp at Auschwitz from among the Bolshevist commissars who had been taken prisoner in the campaign against the Soviet Union. The liquidation of the persons chosen took place in the concentration camp at Natzweiler.

Whether the liquidation entailed a death which was deserved or undeserved on the part of the persons chosen depends upon whether the "Commissar Order," which was the basis of the liquidation, can be regarded as legal and permissible or not. A detailed examination of this question can be excluded here, since subjective grounds are of decisive significance in this connection.

Sievers did *not* take part personally *either in the selection or in the liquidation* of those persons designated for the skeleton collection. The choosing was undertaken by a certain Dr. Beger in the concentration camp at Auschwitz. (*NO–087, Pros. Ex. 181.*) Sievers himself was never in Auschwitz. The liquidation took place in the concentration camp at Natzweiler. The *earliest date* at which the liquidation could have taken place is shown by the date of the aforementioned document which is dated 21 June 1943. After 23 January 1943, Sievers was no longer in Natzweiler. Therefore, any personal participation of Sievers in the selection as well as the liquidation is out of the question.

We must now examine whether the setting up of the skeleton collection and the associated liquidation of those persons selected took place on Sievers' orders or instructions—

The *prosecution* has submitted and read:

Letter of the Reichsgeschaeftsfuehrer of the Ahnenerbe to Brandt, dated 9 February 1942, with a report from Dr. Hirt in which the latter suggests a collection of skulls for the University of Strasbourg which was to be obtained from Jewish-Bolshevist Commissars. (*NO–085, Pros. Ex. 175.*)

Letter of Brandt to Sievers, dated 27 February 1942, with the report that the Reich Leader SS is quite interested in the work of Professor Hirt and will place at his disposal everything which he requires for his experiments. (*NO–090, Pros. Ex. 176.*)

Letter of the Reichsgeschaeftsfuehrer of the Ahnenerbe to Dr. Brandt, dated 2 November 1942, regarding the requisition of 150 skeletons of prisoners for certain anthropological examinations. (*NO–086, Pros. Ex. 177.*)

Personal staff Reich Leader SS to Reichssicherheitshauptamt (Main Office for the Security of the Reich), dated 6 November 1942, regarding transmission of the order of the Reich Leader SS

to make possible the construction of the skeleton collection as planned. (*NO–089, Pros. Ex. 179.*)

Letter of the personal staff Reich Leader SS to the Ahnenerbe, dated 3 December 1942, regarding remedying of deficiencies through SS Obergruppenfuehrer Pohl. (*NO–092, Pros. Ex. 180.*)

Letter of the Institute for Military Scientific Research of the Reichssicherheitshauptamt (Main Office for the Security of the Reich), dated 21 June 1943, regarding the transfer of the 115 persons selected by SS Hauptsturmfuehrer Beger in the concentration camp at Auschwitz. (*NO–087, Pros. Ex. 181.*)

Telegram of the personal staff, office "A", to Dr. Brandt, dated 5 September 1944, regarding the procurement of instructions as to what should happen to the collection in the event Strasbourg should be endangered. (*NO–088, Pros. Ex. 182.*)

Two memoranda of Berg, dated 15 and 26 October 1944, regarding the breaking up of the collection. (*NO–091, Pros. Ex. 183.*)

Several entries in the diary of Sievers, 1943–44.

A letter of Sievers to Dr. Hirt, dated 3 January 1942, has been offered by the prosecution. (*NO–3629, Pros. Ex. 547.*) This letter contains the request of Himmler to Hirt to make available to him a detailed report regarding his experiments which then could serve as basis for a conference.

Letter of the Reich Business Manager to Dr. Hirt, dated 29 October 1942, regarding the granting of subsidies for research activities. (*NO–3819, Pros. Ex. 550.*)

In this respect, *counsel for the defense* declares:

The idea of setting up a skull collection of Jewish-Bolshevist Commissars initiated with Dr. Hirt, director of the Anatomy Department of the University of Strasbourg. Dr. Hirt himself submitted to Himmler the suggestion for setting up such a collection. (*Tr. p. 5704.*) The suggestion received Himmler's complete assistance. Himmler issued instructions to place everything at Hirt's disposal which he required for his experiments. (*NO–090, Pros. Ex. 176.*) In addition to this, Himmler issued an order through his personal staff on 6 November 1942 that everything necessary will be placed at the disposal of Professor Dr. Hirt. (*NO–089, Pros. Ex. 179.*)

It can be seen from the letter of the personal staff of the Reich Leader SS to the Reich Business Manager of the Ahnenerbe, dated 25 March 1942, how energetically Himmler favored the experiments of Dr. Hirt. This letter states:

"In this connection, please get in touch with Hirt as soon as possible and consider further how Hirt can best be brought closer to us." (*Sievers 53, Sievers Ex. 49.*)

It can be seen further from the direct examination of Sievers that

Dr. Hirt was a confidant of Himmler, for Sievers was able to establish this fact as early as 1936 and in the subsequent years had an opportunity to repeat this observation. (*Tr. pp. 5706–7.*)

This can also be established by means of the conference which took place at Easter 1942 regarding the course of which Sievers has given a detailed description. Among other things, Sievers called attention to the fact that Hirt and his anatomical collection, which was a University matter, did not concern the Ahnenerbe in any way.

Himmler became quite active after this aggressive action of Sievers, following which the latter requested an order in writing. (*Tr. p. 5715.*)

In this connection, the order of Himmler, dated 7 July 1942, must also be mentioned. Figure 2 reads as follows (*NO–422, Pros. Ex. 33*):

"I order the Ahnenerbe

"1. * * *

"2. To aid in every possible manner the research activities of SS Hauptsturmfuehrer Professor Dr. Hirt and in the same way promote all the experiments and work pertinent to same."

These facts were necessary in order to clarify matters for the chief instigators, Himmler and Hirt. Everyone cognizant of the conditions knows that it was also impossible in this case to act in any way contrary to the orders issued by Himmler.

Until the Easter conference of 1942, Sievers knew nothing of the Commissar Order; Himmler at that time showed him pictures of Bolshevist Commissars, men and women who had been arrested, as well as pictures of German soldiers and civilians who had been killed and mutilated in the most horrible manner by these male and female monsters. This influenced Sievers' attitude toward the "Commissar Order," the contents of which he learned in outline at that time. The original text of the "Commissar Order" could not be produced during the Goering* trial. For a clarification of the contents of this order, counsel for the defense refers to the—

"Directives for the commands of the Chiefs of the Security Police and of the Security Service (SD) to be transferred to the Stalags." (*Sievers 54, Sievers Ex. 50.*)

As in the other cases, Sievers' activity consisted in forwarding correspondence, whether it came from "above," that is, Himmler, Rudolf Brandt, or from Hirt or other third parties. It can be shown conclusively that he himself issued no instructions and orders and thereby exercised no decisive activity.

The suggestion to set up a Jewish-Bolshevist skull collection did not originate with Sievers but with Dr. Hirt. The order for this was

*Trial before International Military Tribunal. See Trial of the Major War Criminals, vols. I–XLII, Nuremberg, 1947.

issued by Himmler, who also ordered that Hirt should be granted all possible assistance.

Himmler requested information about the anthropological experiments of Dr. Hirt from Sievers and ordered the presentation of a report from Dr. Hirt. Thereafter, Sievers submitted, on 9 Febuary 1942, the report requested again by Dr. Brandt on 29 December 1941.

* * * * * * *

After his meeting with Hirt in May 1941 and his brief report to Himmler, Sievers obviously did not concern himself further with the entire matter, until Himmler, in his letter dated 29 December 1941, requested a detailed report from Hirt through Dr. Brandt. This can be seen from the reference memorandum of Sievers dated 9 February 1942 in his letter of 9 February 1942 to R. Brandt (*NO–085, Pros. Ex. 175*) and was also stated by Sievers on direct examination. (*Tr. p. 5704.*) At that time, Himmler imparted the information which Sievers passed on to Hirt in his letter of 3 January 1942. In this letter, the question of a Jewish-Bolshevist skull collection was never mentioned but simply the matter of anthropological experiments. It is generally known that the carrying out of anthropological experiments forms a part of the chief duties of every anatomical institute, and also that such experiments are conducted on designated groups of persons, and that persons who have been executed are turned over to anatomical institutes for research purposes. Upon the request of Hirt for assistance in his anthropological experiments, Himmler immediately made a corresponding offer; as the competent chief of the German police, he was in a position to do so. And Sievers, at that time, need not have assumed, by any stretch of the imagination, that the experimental subjects were to be killed for this purpose. On the basis of the general practice, he could perhaps more easily assume that only the corpses of those legally condemned to death and legally executed would be considered for the experiments of Hirt. Today we know that it was compatible with his criminal mentality insofar as human experiments and the like were concerned. At that time, the latter part of 1941, no one who, like Sievers, had not up to this time come in contact with experiments on human beings could have suspected in advance that in this case it would be a question of criminal acts.

In addition, there was no provision made at all at this time for Hirt's working in connection with the Ahnenerbe. In his letter of 3 January 1942 to Hirt, Sievers writes:

> "In order to effect your transfer to the Ahnenerbe, that is, to the Personal Staff of the Reich Leader SS, I would like some information from you."

Naturally, Himmler wanted Hirt to be as close to him as possible, but in reference to the transfer Sievers adds: "* * * that is, to the Personal Staff of the Reich Leader SS", for neither Sievers nor Hirt assumed that Hirt would receive the support of Himmler through the Institute for Humanistic Studies of the Ahnenerbe of all things. This was also testified to by Sievers on direct examination. (*Tr. pp. 5715 6.*)

Not until later did Hirt's connection with the Ahnenerbe develop as a result of the personal and extraordinary urging of Himmler, as can be proved by the two letters, dated 27 February 1942 (*NO–090, Pros. Ex. 176*), and 25 March 1942 (*Sievers 33, Sievers Ex. 49*). On the basis of these letters and the efforts of Himmler, Sievers then lodged a protest with Himmler at Easter, 1942—5 April— as he set forth in detail on direct examination. (*Tr. pp. 5714–15.*)

As a matter of fact, Hirt did not become a member of the Ahnenerbe until the fall of 1942, as can be seen from the prosecution rebuttal Document NO–3819, Prosecution Exhibit 550.

The rebuttal documents submitted by the prosecution in this matter do not, therefore, refute the testimony of Sievers on his direct examiation, but *confirm them*, which is also shown by the affidavits of Frau Dr. Schmitz (*Sievers 45, Sievers Ex. 46; Sievers 55, Sievers Ex. 51*), and is shown in a further summary in the affidavit of Sievers. (*Sievers 64, Sievers Ex. 59.*)

Letter of the Chief of the Security Police (SIPO) and of the Security Service (SD) dated 9 November 1941, regarding the transportation of the Soviet-Russian prisoners of war, who were to be executed, to the concentration camps (*1234–PS, Pros. Ex. 555*):

It can be seen from this document that Soviet-Russian prisoners of war who were to be executed were taken to the concentration camps. Although the Commissar Order was not known to Sievers in detail, it follows from the context of the Easter conference of 1942, which Sievers had with Himmler, that Soviet-Russian Commissars were affected by this order. At that time, it was generally known in the German Wehrmacht and also among the German civilian population that there were female commissars in the Soviet-Russian Army who evidenced an unusual degree of fanaticism. It was also known that strong gangs of insurgents were being formed behind the German front line, who were conducting a ruthless and brutal war against members of the German Wehrmacht of both sexes contrary to all the rules of international law. In the ranks of these gangs there were many riflewomen who, in complete accordance with the provisions of international law,

were condemned to death. In this respect, it must be stated that all or the great majority of the Soviet-Russian Commissars did not commit crimes against international law. However, there can be no doubt that within their great numbers, a certain number could have also been found who could have committed such crimes. Since the number of skeletons requested by Hirt was small, Sievers could assume that only such criminals could be considered for the collection.

Therefore, it cannot be argued that Sievers must in any case have assumed from the letter dictated by Dr. Beger to the Reich Security Main Office, dated 21 June 1943, that the persons who had been chosen by Dr. Beger in the concentration camp at Auschwitz were to be liquidated without trial or without any legal basis. It was not the duty of Sievers to check this matter. Here we must examine only whether Sievers in any case is bound to have recognized that the proceedings were illegal or whether he could rely on the fact that there existed a legal basis for the liquidation ordered by Himmler. Considering the war conditions in the East, Sievers could assume the latter fact without further ado.

These statements are only made in case it should be assumed that Sievers had the obligation to examine this independently. We think, however, that someone who was only engaged in a subordinate position was entitled to rely on the legality of the decisions of his superior.

* * * * * * *

d. Evidence

Prosecution Documents

Doc. No.	Pros. Ex. No.	Description of Document	Page
NO–085	175	Letter from Sievers to Rudolf Brandt, 9 February 1942, and report by Hirt concerning the acquisition of skulls of Jewish-Bolshevik Commissars.	748
NO–086	177	Letter from Sievers to Rudolf Brandt, 2 November 1942, requesting with Himmler's approval, 150 skeletons.	750
NO–087	181	Letter from Sievers to Eichmann (copy to Rudolf Brandt), 21 June 1943, concerning selection of subjects for a skeleton collection.	751
NO–807	185	Tank containing formaldehyde for the preservation of corpses; corpses assembled in tanks prior to dissection; corpse showing incisions in preparation for dissection. (*See Selections from Photographic Evidence of the Prosecution.*)	905

Defense Documents

Doc. No.	Def. Ex. No.	Description of Document	Page
Sievers 45	Sievers Ex. 46	Extract from the affidavit of Dr. Gisela Schmitz, 27 March 1947, on Sievers' position in the Ahnenerbe Society and his connection with the skeleton collection.	752
Sievers 54	Sievers Ex. 50	Regulations for the Commandos (Einsatzkommandos) of the Security Police and the Security Service to be activated in Stalags.	754

Testimony

Extract from the testimony of defendant Rudolf Brandt---------- 757

TRANSLATION OF DOCUMENT NO–085
PROSECUTION EXHIBIT 175

LETTER FROM SIEVERS TO RUDOLF BRANDT, 9 FEBRUARY 1942, AND REPORT BY HIRT CONCERNING THE ACQUISITION OF SKULLS OF JEWISH-BOLSHEVIK COMMISSARS

The Ahnenerbe
The Reich Business Manager

Berlin, 9 February 1942
G/R/2 page 1

To: SS Sturmbannfuehrer Dr. Brandt
Berlin SW 11, Prinz Albrecht Strasse 8

Secret

Dear Comrade Brandt:

For the reason that Professor Dr. Hirt has in the meantime become seriously ill, I regret that I have been unable to submit any sooner Dr. Hirt's report which you requested in your letter of 29 December 1941, Journal No. AR/493/37. He was stricken with pulmonary hemorrhages, the diagnosis was "cystlung", so at least it is not TB. In addition to that he suffered from circulatory asthenia. At present he is still in the hospital, but hopes that the doctor will release him soon so that he can, at least to a limited degree, resume his work. Due to those circumstances Professor Hirt was able to furnish only a preliminary report which, however, I still should like to submit to your attention. The report concerns—

1. his research in the field of microscopy of living tissues, the discovery of a new method of examination, and the construction of a new research microscope, and

2. a proposal for securing skulls of Jewish-Bolshevik Commissars.

As a supplement to report 1, some special publications are attached; of which the two parties from the "Zeiss Nachrichten" #10 (Vol. II) and 1–5 (Vol. III) facilitate most rapid general orientation, whereas other publications deal with difficult, individual scientific studies.

Sincerely yours
Heil Hitler!
[Signed] SIEVERS

Enclosures

Enclosure

Subject: Securing skulls of Jewish-Bolshevik Commissars for the purpose of scientific research at the Reich University of Strasbourg.

There exist extensive collections of skulls of almost all races and peoples. Of the Jewish race, however, only so very few specimens of skulls are at the disposal of science that a study of them does not permit precise conclusions. The war in the East now presents us with the opportunity to remedy this shortage. By procuring the skulls of the Jewish-Bolshevik Commissars, who personify a repulsive yet characteristic subhumanity, we have the opportunity of obtaining tangible scientific evidence.

The actual obtaining and collecting of these skulls without difficulty could be best accomplished by a directive issued to the Wehrmacht in the future to immediately turn over alive all Jewish-Bolshevik Commissars to the field police [Feldpolizei]. The field police in turn is to be issued special directives to continually inform a certain office of the number and place of detention of these captured Jews and to guard them well until the arrival of a special deputy. This special deputy, commissioned with the collection of the material (a junior physician attached to the Wehrmacht or even the field police, or a medical student equipped with car and driver), is to take a prescribed series of photographs and anthropological measurements, and is to ascertain, insofar as is possible, the origin, date of birth, and other personal data of the prisoner. Following the subsequently induced death of the Jew, whose head must not be damaged, he will separate the head from the torso and will forward it to its point of destination in a preserving fluid in a well-sealed tin container especially made for this purpose. On the basis of the photos, the measurements and other data on the head and, finally, the skull itself, comparative anatomical research, research on racial classification, pathological features of the skull formation, form and size of the brain, and many other things can begin. In accordance with its scope and tasks, the new Reich University of Strasbourg would be the most appropriate place for the collection of and research on the skulls thus acquired.

TRANSLATION OF DOCUMENT NO–086
PROSECUTION EXHIBIT 177

LETTER FROM SIEVERS TO RUDOLF BRANDT, 2 NOVEMBER 1942, REQUESTING WITH HIMMLER'S APPROVAL, 150 SKELETONS

The Ahnenerbe
The Reich Business Manager

Berlin, 2 November 1942
[Stamp]
Personal Staff Reich Leader SS
Registration of Files Secret 5/116

Secret

To: SS Obersturmbannfuehrer Dr. Brandt
Berlin

Dear Comrade Brandt!

The Reich Leader SS once ordered, as you know, that SS Hauptsturmfuehrer Prof. Dr. Hirt should be provided with all necessary material for his research work. I have already reported to the Reich Leader SS that for some anthropological studies 150 skeletons of inmates or Jews are needed and should be provided by the Auschwitz concentration camp. It is only necessary for the Reich Security Main Office to be furnished now with an official directive by the Reich Leader SS; by order of the Reich Leader SS, however, you could issue it yourself.

Sincerely yours,
Heil Hitler!
[Signed] SIEVERS

1 enclosure:
Draft of a letter to the Reich Security Main Office

TRANSLATION OF DOCUMENT NO–087
PROSECUTION EXHIBIT 181

LETTER FROM SIEVERS TO EICHMANN (COPY TO RUDOLF BRANDT), 21 JUNE 1943, CONCERNING SELECTION OF SUBJECTS FOR A SKELETON COLLECTION

[Handwritten] XI a 56

Ahnenerbe Office
Institute for Military Scientific Research
G/H/6, S2/He.

Berlin-Dahlem, Puecklerstrasse 16, 21 June 1943

Top Secret

G.R.Z.I. A.H. Sk. No. 10
5 copies—2d copy
no enclosures

To
Reich Security Main Office
Office IV B 4
Attention: SS Obersturmbannfuehrer Eichmann,
Berlin SW 11, Prinz Albrecht Strasse 8
Subject: Assembling of a skeleton collection.

With reference to your letter of 25 September 1942, IV B 4 3576/42 g 1488, and the personal talks which have taken place in the meantime on the above matter, you are informed that the coworker in this office who was charged with the execution of the above-mentioned special task, SS Hauptsturmfuehrer Dr. Bruno Beger, ended his work in the Auschwitz concentration camp on 15 June 1943 because of the existing danger of infectious diseases.

A total of 115 persons were worked on, 79 of whom were Jews, 2 Poles, 4 Asiatics, and 30 Jewesses. At present, these prisoners are separated according to sex and each group is accommodated in a hospital building of the Auschwitz concentration camp and are in quarantine.

For further processing of the selected persons an *immediate transfer to the Natzweiler concentration camp is now imperative;* this must be accelerated in view of the *danger of infectious diseases in Auschwitz.* Enclosed is a list containing the names of the selected persons.

It is requested that the necessary directives be issued.

Since with the transfer of the prisoners to Natzweiler the danger of spreading diseases exists, it is requested that an immediate shipment of *disease-free and clean prisoners' clothing* for 80 men and 30 women be ordered sent from Natzweiler to Auschwitz.

At the same time one must provide for the accommodation of the *30 women* in the Natzweiler concentration camp for a short period.

[Signature] SIEVERS
SS Standartenfuehrer

Carbon copies to—
a. SS Hauptsturmfuehrer Dr. Beger
b. SS Hauptsturmfuehrer Prof. Dr. Hirt
c. SS Obersturmbannfuehrer Dr. Brandt

PARTIAL TRANSLATION OF DOCUMENT SIEVERS 45
SIEVERS DEFENSE EXHIBIT 46

EXTRACT FROM THE AFFIDAVIT OF DR. GISELA SCHMITZ, 27 MARCH 1947, ON SIEVERS' POSITION IN THE AHNENERBE SOCIETY AND HIS CONNECTION WITH THE SKELETON COLLECTION

* * * * * * *

In 1937 I was appointed Secretary in the Research and Instruction Society, the Ahnenerbe, Registered Association, where I remained until the end of the war in 1945. During all these years I worked for Wolfram Sievers, who was Reich Business Manager, and I gained thereby a fairly comprehensive insight into the organization of the Ahnenerbe and into Sievers activity.

The organization of the Ahnenerbe during the time when I was attached to it was as follows:

Himmler was the president; Professor Wuest, Rector of Munich University, was his curator; Sievers was responsible to the latter as Reich Business Manager.

An internal code of procedure laid down as a regulation for the Reich Business Manager stipulated that all decisive functions were the concern of the department chief and curator of the Ahnenerbe. According to this all decisions had to be obtained by the Reich Business Manager from the department chief if they were not dealt with by the president. Professor Wuest had the right to report direct to Himmler as president on all questions; Sievers could only do so on administrative concerns, and then only when Himmler consulted him on special matters and requested a report of him.

Sievers' own sphere was financial and staff administration and the supervision of the business dealings of the Ahnenerbe. In scientific matters Sievers was denied the right to issue any orders. He was also forbidden personally to sign letters concerning scientific matters. However, as it was not always possible in practice to send all letters from Berlin to Munich, the domicile and permanent residence of the curator, for signature, Sievers often signed; Wuest then countersigned the copy.

When in 1942 the Ahnenerbe became a department of the personal staff of the Reich Leader SS, Professor Wuest became department chief. He was thus made responsible for all matters of administration and personnel, which had hitherto been the responsibility of the Reich Business Manager. Himmler personally made it quite clear to Sievers that he was not to interfere in scientific affairs.

In this connection I mention briefly the Ahnenerbe diary which it was Sievers' duty, as Reich Business Manager, to write up. By express order of Himmler, all departments of the Reich Leader SS had to keep diaries. They were a hobby-horse of Himmler's, and failure to comply with this order would have had very unpleasant consequences for the person responsible. Sievers who was frequently away from Berlin used to dictate the diary entries on his return. I know that the entries would not always have been able to stand close examination—they were inaccurate in parts and sometimes fabricated. Sievers insisted upon keeping the diary ostensibly correct, so as not to offend Himmler. The reasons for this will be explained by a later part of my statement. Sievers also mentioned to me the collection of Jewish-Bolshevik skulls, which was planned by Professor Hirt of Strasbourg.

Document NO-085, Prosecution Exhibit 175, regarding the collection of Jewish skeletons has been submitted to me. With the exception of the last paragraph which begins with the words "For the preservation * * *", the report was—as far as I remember—drafted by Dr. Bruno Beger who had come from the SS Race and Settlement Main Office (RuSHA).* I first saw the report in the autumn of 1941. The report had already been circulated in all possible offices and one copy had also been sent to the Ahnenerbe. The reasons why the report had also been sent to the Ahnenerbe are unknown to me; in any case, Sievers showed me this proposal with all signs of horror and defined it as a hybrid outgrowth of the propaganda which at that time used to describe the eastern nations as "subhuman." The report itself was filed away, as it did not concern us, or passed on to the chief of the Ahnenerbe, Professor Wuest, as it was really a "scientific" matter. One day Sievers told me that Himmler had mentioned this matter in a private conversation—I believe it was in connection with Professor Hirt—and ordered the document to be submitted after obtaining an opinion from Professor Hirt. Hirt then added the last paragraph. With this addition the report was forwarded to the personal staff of the Reich Leader SS and to Dr. Rudolf Brandt.

With regard to the Document NO-087, Prosecution Exhibit 181, as shown to me, I can state: the letter to the Reich Security Main Office bears the dictation reference S 2/Ha. According to this, the letter was not dictated by Sievers himself, but—as I remember—by Dr.

*See Case 8, United States *vs.* Ulrich Greifelt, et al. in vols. IV and V.

Beger who dictated the letter in the office of subdepartment Chief Wolff, whose reference number was S 2.

With regard to Document NO–088, Prosecution Exhibit 182, I can say that Professor Hirt had asked by telephone for a decision on the suggestions which appear at the end of this document. Sievers only passed this request of Hirt on to the personal staff of the Reich Leader SS.

Sievers spoke to me repeatedly about the experiments on humans and also about the collection of skeletons and always said that these things were very much against his inner feelings. Repeatedly, I had an opportunity to see how much Sievers suffered in this connection. He sometimes had pronounced periods of depression.

* * * * * * *

TRANSLATION OF DOCUMENT SIEVERS 54
SIEVERS DEFENSE EXHIBIT 50

REGULATIONS FOR THE COMMANDOS (EINSATZKOMMANDOS)* OF THE SECURITY POLICE AND THE SECURITY SERVICE TO BE ACTIVATED IN STALAGS

B 101
Enclosures 2
Office IV — Berlin, 17 July 1941

Top Secret

The activation of commandos will take place in accordance with the agreement of the Chief of the Security Police and Security Service and the Supreme Command of the Armed Forces as of 16 July 1941. The commandos will work independently according to special authorization and in consequence of the general regulations given to them in the limits of the camp organizations. Naturally, the commandos will keep close contact with the camp commander and the defense officers assigned to him.

The mission of the commandos is the political investigating of all camp inmates, the elimination and further treatment—

a. of all political, criminal, or in some other way unbearable elements among them.

b. of those persons who could be used for the reconstruction of the occupied territories.

For the execution of their mission, no additional means can be put at the disposal of the commandos. The Deutsche Fahndungsbuch

*See Case 9, United States *vs.* Otto Ohlendorf, et al. in vol. IV.

[German Wanted List] the Aufenthaltsermittlungsliste [Residence Locator List] and the Sonderfahndungsbuch UdSSR [Special Wanted List, Union of the Soviet Socialist Republic] will prove to be useful in only a small number of cases; the Sonderfahndungsbuch UdSSR is not sufficient, because it contains only a small part of Soviet Russians considered to be dangerous.

Therefore, the commandos must use their special knowledge and ability and rely on their own findings and self-acquired knowledge. Therefore, they will be able to start carrying out their mission only when they have gathered together appropriate material.

The commandos must use for their work as far as possible, at present and even later, the experiences of the camp commanders which the latter have collected meanwhile from observation of the prisoners and examinations of camp inmates.

Further, the commandos must make efforts from the beginning to seek out among the prisoners elements which appear reliable, regardless if there are Communists concerned or not, in order to use them for intelligence purposes inside of the camp and, if advisable, later in the occupied territories also.

By use of such informers and by use of all other existing possibilities, the discovery of all elements to be eliminated among the prisoners must succeed step by step at once. The commandos must learn for themselves, in every case, by means of short questioning of the informers and eventual questioning of other prisoners.

The information of one informer is not sufficient to designate a camp inmate to be a suspect without further proof; it must be confirmed in some way if possible.

Above all, the following must be discovered; all important functionaries of state and party, especially—

Professional revolutionaries.
Functionaries of the Comintern.
All policy forming party functionaries of the Communist Party of the Soviet Union and its subsidiary organizations in the central committees, in the regional and district committees.
All Peoples Commissars and their deputies.
All former Political Commissars in the Red Army.
Leading personalities of the Main and intermediate offices of the state authorities.
Members of the Soviet Russian intelligentsia.
All Jews.
All persons who are found to be agitators or fanatical Communists.

It is not less important, as mentioned already, to discover all those

persons who could be used for the reconstruction, administration, and management of the conquered Russian territories.

Finally, all such persons must be secured who are still needed for the completion of further investigation, regardless if they are police investigations or other investigations, and for settling questions of general interest. Among them are all those especially who, because of their position and their knowledge, are able to give information about measures and working methods of the Soviet-Russian State, of the Communist Party, or of the Comintern.

In the final analysis, consideration must be given to origin in all decisions to be made. The leader of the Einsatzkommando will give a short report every week by telephone or an express letter to the Reich Security Main Office, containing:

1. Short description of their activities in the past week.

2. Number of all definitely suspicious persons (report of number sufficient).

3. Individual names of all persons found to be functionaries of the Comintern, leading functionaries of the party, Peoples Commissars, leading personalities, and political commissars.

4. Number of all persons found not to be suspicious informers, with a short description of their position.

A. Prisoners of war.

B. Civilians.

On the basis of those activity reports the Reich Security Main Office will issue immediately the further measures to be applied. For the measures to be applied on the basis of this successive directive, the commandos are to demand the surrender of the prisoners involved from the camp command.

The camp commandants have received orders from the Supreme Commander of the Armed Forces to approve such requests.

Executions are not to be held in the camp or in the immediate vicinity of the camp. If the camps in the General Government are in the immediate vicinity of the border, then the prisoners are to be taken for special treatment, if possible, into former Soviet-Russian territory.

Should executions be necessary for reasons of camp discipline, then the leader of the Einsatzkommando must apply to the camp commander for it.

The commandos have to keep lists about the special treatments carried out and must contain—

Current number.
Family name and first name.
Date and place of birth.
Military rank.

Profession.
Last residence.
Reason for special treatment.
Day and place of special treatment (card file).

In regard to executions to be carried out and to the possible removal of reliable civilians and the removal of informers for the Einsatz group in the occupied territories, the leader of the Einsatzkommando must make an agreement with the nearest state police office, as well as with the commandant of the security police unit and security service and beyond these with the chief of the Einsatz group concerned in the occupied territories.

Reports of that kind are to be transmitted for information to the Reich Security Main Office, IV A 1. Excellent behavior during and after duty, the best cooperation with the camp commanders, and careful examinations are the duty of all leaders and members of the Einsatzkommando.

The members of the Einsatzkommando must be constantly aware of the special importance of the missions entrusted to them.

EXTRACT FROM THE TESTIMONY OF DEFENDANT RUDOLF BRANDT *

DIRECT EXAMINATION

* * * * * * *

DR. KAUFFMANN: Witness, I now put to you documents concerning, among other things, procuring skulls of Jewish-Bolshevist Commissars. Please look at page 1 of Document NO-085, Prosecution Exhibit 175. This is a letter from the Ahnenerbe, of 9 February 1942, addressed to you. It is a secret communication, and it bears Sievers' signature. There are two annexes to this document. One of them concerns research into microscopy, and the other one concerns the suggestion for procuring the afore-mentioned skeletons for the purpose of scientific research. Now, I ask you whether you received this document, whether you are familiar with the contents of this letter, and whether you still remember it today?

DEFENDANT RUDOLF BRANDT: I received the letter with the inclosures, but I recall as little about this as I recall about the other matters.

Q. Do you wish to say then that you did not read the two inclosures to this letter?

A. That is what I really should like to say because, as I have already said, reports which were destined for the Reich Leader were put with the mail that he was to read personally, and it would have been the

*Complete testimony is recorded in mimeographed transcript, 24, 25, 26 March 1947, pp. 4869–4994.

same in the case of Professor Hirt's report, which is really incomprehensible to a lay reader.

Q. Perhaps I might point out to the Tribunal that the two inclosures are wrongly bound in the document. The first inclosure refers to the microscopic research and the second inclosure to the procuring of skeletons. Is that also your opinion, Herr Brandt?

A. Yes. That is how the letter states it. First, comes the microscopic study and then the other.

Q. Now, I ask you, with particular regard to the fact that you are testifying under oath, did you know in detail that, as can be seen from this report, human beings were to be killed and that the skulls or skeletons were then to be sent to the University of Strasbourg? Did you know these details?

A. No. I did not know these details.

Q. Would you tell us just what you did know, in broad terms?

A. I knew the contents of the letter which I sent on to Eichmann.

Q. This is Document NO–116, Prosecution Exhibit 178. In this letter you inform Eichmann that everything necessary would be done for Professor Hirt to build up this collection of skeletons, and you say further that SS Obersturmbannfuehrer Sievers will communicate with Eichmann as to the details of this. I now ask you, who is Eichmann?

A. I do not think that I had any idea who Eichmann was at that time. Sievers sent me the draft of this letter, which I certainly did not send on in this form as it appears here. As was always the case, I showed it to Himmler, and only then did I send it on. I am quite sure that I heard Eichmann's name then for the first time. I did not know him otherwise, nor did I know him later.

Q. Can you not tell us whether you did not have some idea as to what was going on here in this whole business? When, for instance, one heard that a collection of skeletons was to be made, then one would surely ask oneself what was really going on?

A. I certainly had no other ideas concerning this matter than those that would normally arise in connection with a collection of skeletons for anatomical purposes; and it would never have occurred to me that any prisoners would be used for this except those who had died a normal death.

Q. Did you work on this affair independently thereafter, or did you submit the matter to Himmler for him to decide and arrange?

A. It was submitted to Himmler, like all other questions. To begin with I was not thoroughly versed in such matters, and secondly, owing to my lack of technical knowledge, I could not give orders or instructions for it to be carried out.

Q. I draw your attention now to Document NO–087, Prosecution Exhibit 181, again a letter to Eichmann marked "secret", dated 21

June 1943. The letter was apparently sent by Sievers with copies for two other persons and also with a copy to be sent to you. This letter says that altogether 115 persons would be affected and that the selected persons should be sent to the concentration camp at Natzweiler. How would such a letter be handled by you in your registry office—I refer now to the copy which was sent to you? Did you again submit it to Himmler, and did you or someone else lay the letter aside?

A. I do not remember ever having seen this letter. The file note on it bears an initial that is not mine, but that of my collaborator Berg. He also initialed for filing several of the documents that are in the document book.

Q. Now, please look at the file note of Berg. (*NO–091, Pros. Ex. 183.*) Would you say that that is the same Berg who initialed the foregoing document?

A. Yes. That is the same Berg.

Q. Now, please look at Document NO–091. Here it says, "Note—for SS Standartenfuehrer Dr. Brandt", and it is signed by Berg. This reproduces a talk that Berg had with Sievers; do you remember seeing this notation?

A. I do not remember having seen it.

Q. Let me point out the date, 26 October 1944.

A. That was the last day of our stay at our East Prussian quarters. The Russians were only about 30 to 40 kilometers away. Berg would have made the note so that I could get a final report to Himmler. As, however, we had to clear out by that evening, there were more important things to do than to submit such a memorandum, so that possibly he did not show it to me at all.

C. Project To Kill Tubercular Polish Nationals

a. Introduction

The defendants Blome and Rudolf Brandt were charged with participation in and responsibility for the murder and mistreatment of tens of thousands of Polish Nationals allegedly infected with incurable tuberculosis (par. 8 of the indictment). On this charge both defendants were acquitted.

The prosecution's summation of the evidence and argumentation on this charge is contained in its closing brief against the defendant Blome. An extract from this brief is set forth below on pages 760 to 763. A corresponding summation of the evidence by the defense has been selected from the final plea for the defendant Blome. It appears below on pages 763 to 768. This argumentation is followed by selections from the evidence on pages 769 to 794.

b. Selection from the Argumentation of the Prosecution

EXTRACT FROM THE CLOSING BRIEF AGAINST DEFENDANT BLOME

* * * * * * *

Personal Participation in Criminal Activities—Murder and Mistreatment of Polish Nationals

By 1941 it was the accepted policy of the Third Reich to exterminate the Jewish population of Germany and the occupied countries. (IMT judgment.*) In pursuance of this policy the Reich Governor of the Warthegau, Greiser, obtained permission from Himmler to exterminate the Jewish population in this province. In a letter of 1 May 1942, he informed Himmler that the "special treatment" of about 100,000 Jews would be completed within 2 to 3 months. He stated that as soon as this task was completed, the "existing and efficient special commandos" could be used for the extermination of approximately 35,000 Polish Nationals who suffered from open tuberculosis. These Poles allegedly were a danger to the German officials and their families because they were a possible source of tubercular infection. Greiser went on to say:

"The ever-increasing risks were also recognized and appreciated by the deputy of the Reich Health Leader for Public Health [Reichsgesundheitsfuehrer] Comrade Professor Dr. Blome as well as by the leader of your X-ray battalion, SS Standartenfuehrer Prof. Dr. Hohlfelder.

"Though in Germany proper it is not possible to take appropriate draconic steps against this public plague, I think I could take responsibility for my suggestion to have cases of open tuberculosis exterminated among the Polish race here in the Warthegau. Of course, only a Pole should be handed over to such an action who is not only suffering from open tuberculosis, but whose incurability is proved and certified by a public health officer.

"Considering the urgency of this project I ask for your approval in principle as soon as possible. This would enable us to make the preparations with all necessary precautions now to get the action against the Poles suffering from open tuberculosis under way, while the action against the Jews is in its closing stages." (*NO–246, Pros. Ex. 196.*)

In a letter of 27 June 1942 Himmler gave consent in principle to this plan and instructed Greiser to discuss the individual measures in detail with the security police first, in order to assure an inconspicuous accomplishment of the task. (*NO–244, Pros. Ex. 201.*) On 21 Novem-

*Trial of the Major War Criminals, vol. I, pp. 247–253, Nuremberg, 1947.

ber 1942 Greiser informed Himmler that the examinations which were to be carried out in order to separate the curable and incurable would be executed by Professor Hohlfelder and his X-ray battalion. He estimated that the first utilization of the method would be in approximately six months. He further stated:

"In this stage of the proceedings, Professor Dr. Blome, in his capacity as Deputy Chief of the Public Health Office [Hauptamt fuer Volksgesundheit] of the NSDAP is raising some objections as to its execution, as he states in a letter of 18 November. These objections are expressed only now, although Dr. Blome and Dr. Hohlfelder and myself have spent months of preliminary work on examination, clarification, and straightening out the whole procedure.

"I enclose a copy of Blome's letter of 18 November for your information * * *." (*NO-249, Pros. Ex. 202.*)

In this letter, Blome stated that among the Polish population of the province, at least 35,000 persons were suffering from open tuberculosis, and besides this number, about 120,000 consumptives were in need of treatment. This constituted an enormous danger to the German settlers in all parts of the province. In order to make further German immigration possible, counter measures were to be taken soon. Blome then outlined the three ways for the practical elimination of the danger of infection:

"1. Special treatment [Sonderbehandlung] of the seriously ill persons.

"2. Most rigorous isolation of the seriously ill persons.

"3. Creation of a reservation for all tubercular patients."

As to the first proposal he stated:

"The approximately 35,000 Poles who are incurable and infectious will be 'specially treated'. All other Polish consumptives will be subjected to an appropriate cure in order to save them for work and to avoid their causing contagion." (*NO-249, Pros. Ex. 202.*)

Blome pointed out that one of the practical difficulties of outright extermination of all tubercular Poles was that it might provide excellent propaganda material for the enemies of Germany, especially with regard to the strong Catholic feelings of the Italian nation and "all the physicians of the world." He therefore considered it necessary that Hitler himself personally decide on this step. Should Hitler consider this radical solution as unsuitable, preparations for the execution of the plan as outlined in points 2 and 3 should be made. The exclusive settlement of all tubercular Poles, irrespective of whether they were curable or incurable, would remove the danger of infection for the German settlers. These Poles should be used for labor. Not only the tubercular Poles of the Warthegau, but also those

in Danzig-West Prussia, those of the administrative district of Zichenau, and of the Province of Upper Silesia should be isolated in the same settlement. He stated:

"Another solution to be taken into consideration would be a strict isolation of all the infectious and incurable consumptives, without exception, in nursing establishments. *This solution would lead to the comparatively rapid death of the sick.* With the necessary addition of Polish doctors and nursing personnel, the character of a pure death camp would be somewhat mitigated." (*NO–249, Pros. Ex. 202.*)

Finally Blome advocated as the most practicable solution the creation of a reservation similar to the reservation for lepers. Within the reservation, the strict isolation of the strongly contagious could easily be achieved. In this way the danger of infection would be removed and the problem of the German consumptives in the province would be overcome. (*NO–250, Pros. Ex. 203.*) Blome admitted that the expression "special treatment" which he used in the letter meant the killing of the tubercular Poles. (*Tr. p. 4791.*)

Himmler approved Blome's plan to create a reservation for tubercular Poles, incurable and curable alike, in a letter to Greiser dated 3 December 1942. It would be possible to exploit this action for propaganda purposes, whereas on the other hand, outright extermination of those inflicted with open tuberculosis would take too long, as the X-ray examinations of the Polish population would require at least six months. (*NO–251, Pros. Ex. 204.*)

That at least some of the tubercular Poles were exterminated, while the others were taken to death camps where they were left to die, is proved by the affidavit of the defendant Rudolf Brandt. (*NO–441, Pros. Ex. 205.*) Brandt tried to explain, not to say repudiate, this affidavit by testifying that he made the statements on the basis of documents shown to him in pretrial interrogations. He stressed the point, however, that he insisted the wording of one sentence be changed. This sentence originally read: "As a result of the suggestions made by Blome and Greiser, 8–10,000 Poles were exterminated"! He changed the expression "8–10,000" to "numerous." (*Tr. pp. 4890, 4953.*) This proves in itself that Brandt did not make his statement in exclusive reliance on the contents of the documents shown to him in pretrial interrogations (*Tr. p. 4891*) but also on the basis of the knowledge he obtained as collaborator of Himmler. The documents do not show the execution of "numerous" Poles. Moreover, Brandt states in these documents that Dr. Blome visited Himmler from time to time and supported Greiser's suggestions. There is no document in evidence or in the possession of the prosecution which would give the basis for this statement. It is, therefore, clear that Brandt's

statements are founded upon knowledge which he obtained from Himmler.

Without a doubt, Rudolf Brandt is as well advised on the crimes which are the subject of this trial as any man in Germany. There is no reason whatever for refusing to give full weight to the pretrial statements of Brandt. There has been no proof that these statements were obtained by fraud or duress. Brandt's testimony before the Tribunal can be summed up in one sentence: "I remember nothing." Aside from a description of Himmler's personality, he contented himself with giving answers to leading questions by his attorney which were calculated to reveal him as a disembodied stenographic automaton—something in the nature of a proficient half-wit. Surely his pretrial affidavits are entitled to more weight than the blatant nonsense which was his testimony.

Blome denied that he ever planned or suggested that Poles suffering from open tuberculosis should be exterminated and that the remainder should be put in reservations and left there to die (*Tr. pp. 4578, 4790–1*) but he is contradicted by the proof of his own making.

* * * * * * *

c. Selection from the Argumentation of the Defense

EXTRACT FROM THE FINAL PLEA FOR THE DEFENDANT BLOME *

* * * * * * *

Probably the most serious accusation against Dr. Blome seemed to be the allegation that he had proposed the murder of 25,000–30,000 tubercular Poles and had taken part in carrying out this plan. The evidence clearly shows, however, that this accusation is quite unfounded. I maintain on the contrary (*a*) it is not true that Dr. Blome approved or supported this murderous plan, and (*b*) it is also untrue that this plan was ever carried out. It is true, however, that it was Dr. Blome himself who prevented this devilish plan. It was Dr. Blome who, by his clever intervention saved the lives of the 25,000–30,000 tubercular Poles who were to be "liquidated."

The documents show that this plan originated with Gauleiter Greiser and Reich Leader SS Himmler. Blome was then assigned to this matter because it was known that he had for many years made the fight against tuberculosis the aim of his life, and because he built his cancer institute in the same Gau which Gauleiter Greiser governed. Blome stated his attitude to this plan clearly at the time in the well-known letter of 18 November 1942. (*NO–250, Pros. Ex. 203.*) He discussed the three possibilities which existed and explained the pro's and

*Final plea is recorded in mimeographed transcript, 16 July 47, pp. 10972–10994.

con's of each of these three possibilities in detail. These three possibilities were either "Liquidation," i. e., the murder of those Poles suffering from incurable tuberculosis, their internment in isolated institutions, or lastly, their settlement in a reservation. In his letter of 18 November 1942 (Appendix 25) he definitely rejected the first possibility and advocated the latter.

In this, Blome was completely successful. Greiser was so much impressed by Blome's arguments that he no longer dared to carry out the liquidation of the Poles which had been decided upon. In fact, he submitted Dr. Blome's memorandum to the Reich Leader SS Himmler, so that he should obtain a decision from Hitler himself. (*NO–249, Pros. Ex. 202.*) This was already a remarkable success for Blome, because Himmler had already ordered the liquidation of the Poles. Blome's arguments made such an impression even on the bloodhound Himmler that, contrary to Greiser's expectations, he cautiously put the matter before Hitler again and obtained his definite ruling. It should be remembered that this in itself would no longer have been necessary, because not only had Conti agreed to the murder, but from Greiser's covering note of 21 November 1942 it is obvious that Hitler had also given his approval to the extermination of the Poles before.

Thereupon, after a subsequent examination of the matter, Hitler withdrew the extermination order and thus Himmler had no alternative but to do the same. This is clearly proved by Himmler's letter of 3 December 1942. (*NO–251, Pros. Ex. 204.*)

The extermination of the Poles did not take place; *this is due to Blome.*

Although these facts are incontestably proved by the documents presented, the prosecution nevertheless upheld the charge against Blome. This evidently was due to the peculiar wording of Blome's letter to Greiser of 18 November 1942. The prosecution in their speech of 19 December 1946 described this letter a "devilish masterpiece of murderous intent." In considering this case, the prevailing conditions should be borne in mind. Dr. Blome knew that the tuberculous Poles were lost, that their murder had been decided upon, unless it was possible on some grounds to change Hitler's mind at the last moment. The statement of the witness Dr. Gundermann (*Blome 1, Blome Ex. 8*) proved that Blome at that time, as is confirmed by Blome's own testimony (*Tr. pp. 4574–78*), strove for days for a successful wording of his letter; he repeatedly drafted the letter, then rejected the wording again, and finally introduced arguments in the letter which he hoped would be successful. From the very beginning he was aware, of course, that his intervention was bound to fail and have no success if he described Hitler's planned extermination of the Poles as a crime and downright murder and solemnly pro-

tested against it. In this way Blome would have achieved nothing for the Poles, but would have had to expect to be brought before a court himself and sentenced for sabotaging an order of the Fuehrer, or to have disappeared in a concentration camp without any legal sentence. With such simple method as entering a solemn protest by calling on the laws of humanity or of justice nothing would have been achieved with Hitler, especially when he had already made up his mind and had decided on a certain matter and had already given the necessary orders for execution; in such cases Hitler was usually inaccessible and would not listen to any counterproposals. Dr. Blome knew this, of course, just as well as, for instance, the Gauleiter of the Lower Danube, who in connection with a similar problem (sterilization), in his letter of 24 August 1942 (*NO–039, Pros. Ex. 153*) pointed out the importance of "enemy propaganda," as he considered this most likely to be successful. Dr. Blome therefore looked for reasons which would perhaps have a decisive influence on Hitler and these were either the Church or other nations. It is understandable that Hitler, in view of the tense situation at that time, in the middle of the Second World War, did not want to break completely with the Church, and he also had to consider the opinion of foreign countries so as not to antagonize neutral states. Dr. Blome speculated on these two points. In his letter of 18 November 1942 he emphasized in a skillful manner, and with full determination, these two points of view, and with those two references he achieved full success. (*NO–250, Pros. Ex. 203.*)

It may now be realized why Blome, in the early part of his letter, tried to give Hitler the impression that he (Blome) fully agreed with the plan as such for the extermination of the Poles, and why he even pretended that everything was already prepared for the execution of this plan. Hitler had, so to speak, only to press the button and 25,000–30,000 Poles would be done away with. This was merely a trick which Blome used in order to ensure a favorable consideration of his second and third proposals (internment or reservation).

If Dr. Blome had written that he declined to approve such an order of the Fuehrer, that, in consequence, no preparations for its execution had been made, and that he would rather resign than become a party to a mass murder, then Hitler would have had his customary outburst, and Blome would have been finished as far as he was concerned; he would, of course, have entirely disregarded the protest of such a "saboteur," and in the interests of so-called "reasons of State," the Fuehrer's orders would have been strictly carried out. To prevent this, Dr. Blome had to pretend for the time being, that he was ready to acknowledge the Fuehrer's orders as a matter of course and, where possible, to participate personally in their execution, if Hitler, as Head of the State, so desired. However, when weighing the pro's and con's, Dr. Blome was able to bring to the foreground points of

view against the plan of extermination which conceivably might greatly impress Hitler.

Blome's letter of 18 November 1942 can only be explained thus, and was intended in this way. (*Blome 1*, *Blome Ex. 8.*) So Dr. Blome, on the strength of this letter, cannot be convicted. For it is certain that Hitler thereupon dropped his plan and completely rescinded his orders for the murder.

This success, which could hardly have been anticipated because of Hitler's obstinacy and vainglory, completely justifies the defendant Blome. It proves that Blome's conception was the right one and that his manipulations saved the lives of the Poles.

Another matter helped Blome considerably, which must not be overlooked here. Shortly before, Hitler had cancelled the continuation of the Euthanasia Program. Apparently he did this under the influence of numerous protests which had been made by the two Christian Churches. The reaction abroad also played a considerable part in this because mass destruction of the insane had been taken up repeatedly by the foreign press with particular reproaches against the Nazi regime. Dr. Blome made use of these points of view which had proved effective in the case of the Euthanasia Program, and they also produced telling effects in the case of the tubercular Poles.

Why did the prosecuting authorities maintain the accusation against Dr. Blome in spite of all this? Apparently this was solely on account of an affidavit by the codefendant Rudolf Brandt. In his affidavit of 24 October 1946 Rudolf Brandt completely suppresses the letters which cause the complete rescinding of the plan for murder. (*NO–441*, *Pros. Ex. 205.*) He is silent about these letters, although it can be proved that they passed through his hands, were initialed, and handed down to lower offices by him.

During his examination by the defense, Rudolf Brandt was charged with untruthfulness. He was unable to offer an explanation, failed to answer, and was forced to submit to the charge of untruthfulness, of deliberate untruthfulness. Altogether, Rudolf Brandt has made an amazing number of affidavits; he has, without scruples, supplied the prosecution with practically every affidavit desired for the incrimination of codefendants, and with equal readiness, he has given affidavits for these same codefendants which directly contradicted his former assertions. What he confirms under oath today, he denies under oath tomorrow, and vice versa. However, it must be stated that the affidavit which Rudolf Brandt made against Dr. Blome, dated 24 October 1946, was the climax of his mendacity. After the experiences in this trial, and after having become acquainted, as we have, with a man like Rudolf Brandt, it would be ridiculous even to consider attaching any weight to the affidavit of a man such as we have got to

know in Rudolf Brandt. His affidavit of 24 October 1946 has been entirely refuted by documents introduced by the prosecution. It is unnecessary, therefore, to examine to what extent Rudolf Brandt's untruthfulness can be traced to his state of mental health.

During the session of 9 December 1946 the prosecuting authorities announced:

> "The prosecution will introduce evidence to show that the program was in fact carried out at the end of 1942 and the beginning of 1943, and that as a result of the suggestions made by Blome and Greiser, many Poles were ruthlessly exterminated and that others were taken to isolated camps, utterly lacking in medical facilities, where thousands of them died."

This evidence has not been produced so far by the prosecuting authorities, although the defense, during the session of 17 March 1947, referred in particular to this lack of evidence. The assertions of a Rudolf Brandt in this respect cannot be evaluated as "evidence," even if it had not been completely retracted and even if it had not already been completely refuted by additional documents submitted by the prosecution. If the prosecuting authorities had succeeded in producing the witness Perwitschky, who had already been proposed in 1946, and who had been approved by the Tribunal, then his testimony would have produced additional clear proof that Blome actually prevented the proposed mass murder.

We know that later fate of these Poles who suffered from incurable open tuberculosis from the affidavit of Dr. Gundermann, the highest medical officer of the Warthegau (the territory in which the tubercular Poles were to be liquidated). (*Blome 1*, *Blome Ex. 8.*) The fight against tuberculosis was a legal task of the Public Health Offices which were subordinated in the Warthegau to the witness Dr. Gundermann. As a result of difficulties caused by the war, it was not possible to accommodate during the war, either in restricted institutions or in a segregated area, those suffering from tuberculosis; these two possibilities, which had been examined in a letter dated 18 November 1942 from Blome to Greiser were therefore out of the question for the time being. (*NO–250*, *Pros. Ex. 203.*) Therefore, the tubercular Poles were provided for according to the same legal regulations which applied to tubercular Germans in Germany proper. Legal regulations notwithstanding, a separate Tuberculosis Welfare Office, with Polish physicians and nurses, was established in the various health offices of the Warthegau. (*Blome 1*, *Blome Ex. 8.*) Therefore, the contention of the prosecution "that the accommodation of sick Poles in restricted institutions resulted in the comparatively rapid death of the sick" or,

that the transportation of the sick into a reserved area meant that, "they were left to their fate, provided with few physicians and with few or no nursing personnel," is devoid of application. (*Tr. pp. 757–59.*)

It should be observed, however, that these proposals by Blome (for internment or reserved areas) did not originate from him, but had already been discussed during the meeting of the German Tuberculosis Society in 1937, and went back to proposals which had already been worked out years before by English research workers in tuberculosis on instructions from the International Tuberculosis Commission, and which had been generally approved. (*Blome 14, Blome Ex. 6.*) Therefore, even if the existence of these proposals had been known, it cannot be said that they contradicted in any way the laws of humanity. According to widespread views held by the responsible circles, such measures are necessary if tuberculosis, from which millions die yearly, is to be fought effectively, and if the healthy portion of the population is to be protected effectively against the dangers of infection through incurable tubercular patients. In this case, the protection of the healthy population against infection appears more important than consideration for the unrestricted liberty of incurable patients.

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d. Evidence

Prosecution Documents

Doc. No.	Pros. Ex. No.	Description of Document	Page
NO–247	197	Letter from Koppe to Rudolf Brandt, 3 May 1942, concerning the killing of tubercular Poles.	769
NO–244	201	Letter from Himmler (signed by Rudolf Brandt) to Greiser, 27 June 1942, concerning the extermination of tubercular Poles.	770
NO–250	203	Letter from Blome to Greiser, 18 November 1942, concerning the mass extermination of tubercular Poles.	771
NO–441	205	Affidavit of defendant Rudolf Brandt, 24 October 1946, concerning the plan to exterminate tubercular Polish Nationals.	775
NO–246	196	Letter from Greiser to Himmler, 1 May 1942, concerning the plan for mass extermination of tubercular Poles.	776

Doc. No.	Def. Ex. No.	Description of Document	Page
Blome 14	Blome Ex. 6	Extracts from a report on the German Tuberculosis Conference of 18 to 20 March 1937, at Wiesbaden.	777
Blome 1	Blome Ex. 8	Extracts from the affidavit of Dr. Oskar Gundermann, 28 December 1946, stating that Blome opposed the plan to exterminate tubercular Poles and that the plan was never carried out.	778

Testimony

Extract from the testimony of defendant Blome 780

TRANSLATION OF DOCUMENT NO–247 PROSECUTION EXHIBIT 197

LETTER FROM KOPPE TO RUDOLF BRANDT, 3 MAY 1942, CONCERNING THE KILLING OF TUBERCULAR POLES

The Higher SS and Police Leader on the Staff of the Reich Governor in Poznan,
In Military District XXI [Wehrkreis XXI], Journal No. 132/42 g

Poznan, 3 May 1942
Fritz-Reuter Street, 2a
Tel: 6501–05

Secret

To the Reich Leader SS, Personal Staff,
Attention: SS Obersturmbannfuehrer Brandt,
Berlin SW 11, Prinz Albrecht Street 8.
Subject: Poles afflicted with TB.

Dear Comrade Brandt,

May I ask that you submit the following matter to the Reich Leader SS:

The Gauleiter will shortly ask the Reich Leader SS for permission to have Poles who have been shown to be afflicted with open TB admitted to the detachment Lange for special treatment. This request is motivated by the Gauleiter's serious and understandable concern for the physical welfare of the German people here. For there are about 20–25,000 Poles in the Gau who, according to the doctors' opinion, are afflicted with incurable TB and who will not be fit for assignment to work again. In view of the fact that these Poles live very closely crowded together, particularly in the cities, and that, on the

other hand, they come in constant contact with the German population, they constitute a tremendous source of infection which must be checked as quickly as possible. If this is not done, the infection of large numbers of Germans and most serious damage to the health of the German population must be expected. Today already the number of cases of Germans, among them also members of the police force, becoming infected by Poles with TB is increasing.

Under these circumstances, I consider the solution desired by the Gauleiter as the only possible one and ask that you inform the Reich Leader SS accordingly.

With comradely greetings,

Heil Hitler!

Yours,

[Signature] W. KOPPE

TRANSLATION OF DOCUMENT NO-244
PROSECUTION EXHIBIT 201

LETTER FROM HIMMLER (SIGNED BY RUDOLF BRANDT) TO GREISER, 27 JUNE 1942, CONCERNING THE EXTERMINATION OF TUBERCULAR POLES

Top Secret

Reich Leader SS
Journal No. 1247/42
Reference: Yours of 1 May 1942, P 802/42. Bra/V.

[Handwritten] XI 2/97
Fuehrer Headquarters, 27 June 1942

Secret

Reichsstatthalter SS Obergruppenfuehrer Greiser, Poznan

1. Dear Comrade Greiser!

I am sorry that I was not able until today to give a definite answer to your letter of 1 May 1942.

I have no objection to having protectorate people and stateless persons of Polish origin, who live within the territory of the Warthegau and are infected with tuberculosis, handed over for special treatment as you suggest; as long as their disease is incurable according to the diagnosis of an official physician. I would like to request, however,

to discuss the individual measures in detail with the security police first, in order to assure inconspicuous accomplishment of the task.

Heil Hitler!

Yours,

[Signed] H. Himmler

2. SS Obergruppenfuehrer Koppe
3. Reich Security Main Office

Copies for information.

By order:

[Signature] Br.
SS Obersturmbannfuehrer.
[Initialed] M 25/6.

TRANSLATION OF DOCUMENT NO-250
PROSECUTION EXHIBIT 203

LETTER FROM BLOME TO GREISER, 18 NOVEMBER 1942, CONCERNING THE MASS EXTERMINATION OF TUBERCULAR POLES

Dr. med. Kurt Blome
Deputy Head
NSDAP Main Office for Public Health

18 November 1942
Berlin, SW 68, Lindenstrasse 42

To the Reichsstatthalter and Gauleiter, Party Member Greiser, Poznan
Reference: Tuberculosis action in the Warthegau.

Dear Party Member Greiser,

Today I return to our various conversations concerning the fight against tuberculosis in your Gau, and I will give you—as agreed on the 9th of this month in Munich—a detailed picture of the situation as it appears to me.

Conditions for quickly getting hold of all consumptives in your Gau exist. The total population of your Gau amounts to about 4.5 million people, of which about 835,000 are Germans. According to previous observations, the number of consumptives in the Warthegau is far greater than the average number in the old Reich. It was calculated that in 1939 there were among the Poles about 35,000 persons suffering from open tuberculosis, and besides this number about 120,000 other consumptives in need of treatment. In this connection it must be mentioned that, in spite of the evacuation of part of the Poles further to the east, the number of sick persons is at least as great as in 1939. As, in consequence of the war, living and food conditions have deteriorated steadily, one must expect an even higher number.

With the settlement of Germans in all parts of the Gau an enormous danger has arisen for them. A number of cases of infection of children and adults occur daily.

What goes for the Warthegau must to a certain degree also hold true for the other annexed territories, such as Danzig-West Prussia, the administrative districts of Zichenau and Katowice. There are cases of Germans settled in the Warthegau who refuse to have their families follow because of the danger of infection. If such behavior is imitated, and if our compatriots see that necessary measures for combating tuberculosis among the Poles are not carried out, it is to be expected that the necessary further immigration will come to a halt. In such a way the settlement program for the East might reach an undesired state.

Therefore, something basic must be done soon. One must decide the most efficient way in which this can be done. There are three ways to be taken into consideration:

1. Special treatment of the seriously ill persons.
2. Most rigorous isolation of the seriously ill persons.
3. Creation of a reservation for all TB patients.

For the planning, attention must be paid to different points of view of a practical, political, and psychological nature. Considering it most soberly, the simplest way would be the following: Aided by the X-ray battalion we could reach the entire population, German and Polish, of the Gau during the first half of 1943. As to the Germans, the treatment and isolation are to be prepared and carried out according to the regulations of tuberculosis relief. The approximately 35,000 Poles who are incurable and infectious will be "specially treated." All other Polish consumptives will be subjected to an appropriate cure in order to save them for work and to avoid their causing contagion.

According to your request I made arrangements with the offices in question, in order to start and carry out this radical procedure within half a year. You told me that the competent office agreed with you as to this "special treatment" and promised support. Before we definitely start the program, I think it would be correct if you would make sure once more that the Fuehrer will really agree to such a solution.

I could imagine that the Fuehrer, having some time ago stopped the program in the insane asylums, might at this moment consider a "special treatment" of the incurably sick as unsuitable, and irresponsible from a political point of view. As regards the Euthanasia Program it was a question of people of German nationality afflicted with hereditary diseases. Now it is a question of infected sick people of a subjugated nation.

There can be no doubt that the intended program is the most simple and most radical solution. If absolute secrecy could be guaranteed, all scruples—regardless of what nature—could be overcome. But I consider maintaining secrecy impossible. Experience has taught that this assumption is true. Should these sick persons, having been brought, as planned, to the old Reich supposedly to be treated or healed, actually never return, the relatives of these sick persons in spite of the greatest secrecy would some day notice "that something was not quite right". One must take into consideration that there are many Polish workers in the old Reich who will inquire as to the whereabouts of their relatives; that there are a certain number of Germans related to or allied by marriage with Poles who could in this way learn of the transports of the sick. Very soon more definite news of this program would leak out which would be taken up by enemy propaganda. The Euthanasia Program taught in which manner this was done and which methods were used. This new program could be used better politically, as it concerns persons of a subjugated nation. The Church will not remain silent either. Nor will people stop at discussing this program. Certain interested circles will spread the rumor among the people that similar methods are also to be used in the future for German consumptives—even, that one can count on more or less all incurably ill being done away with in the future. In connection with this I recall the recurring recent foreign broadcast in connection with the appointment of Professor Brandt as commissioner general spreading the news that he was ordered to attend as little as possible to the healing of the seriously sick, but all the more to healing the less sick. And there are more than enough people who listen to illegal broadcasts.

Furthermore, it is to be taken into consideration that the planned proceeding will provide excellent propaganda material for our enemies, not only as regards the Italian physicians and scientists, but also as regards all the Italian people in consequence of their strong Catholic ties. It is also beyond all doubt that the enemy will mobilize all the physicians of the world. And this will be all the more easy as the general age-old conception of medical duty practice is "to keep alive the poor and guiltless patient as long as possible and to allay his suffering."

Therefore, I think it necessary to explain all these points of view to the Fuehrer before undertaking the program, as, in my opinion, he is the only one able to view the entire complex and to come to a decision.

Should the Fuehrer decline the radical solution, preparations for another way must be made. An exclusive settlement of all Polish consumptives, both incurable and curable, would be one possibility

of assuring an isolation of the infected. One could settle with them their immediate relatives, if they so desire, so that nursing and livelihood would be assured. As regards labor commitment, besides agriculture and forestry certain branches of industry could be developed in such territories. I cannot judge whether you can conceive such a possibility within your Gau. I also could imagine the creation of a common area for the settlement of the consumptives not only of your Gau, but also of the districts of Danzig-West Prussia, of the administrative district of Zichenau and of the province of Upper Silesia. In order to avoid unnecessary overtaxing of public means of transport, the transfer could be accomplished by walking. This would be a solution that world propaganda could hardly use against us, and one, on the other hand, that would not arouse any of those stupid rumors in our own country.

Another solution to be taken into consideration would be a strict isolation of all the infectious and incurable consumptives, without exception, in nursing establishments. This solution would lead to the comparatively rapid death of the sick. With the necessary addition of Polish doctors and nursing personnel, the character of a pure death camp would be somewhat mitigated.

The following Polish accommodation possibilities are at present available in your Gau:

Nursing Home Walrode	400 beds
Nursing Home "Grote Wiese"	300 beds
Smaller establishments	200 beds
Liebstadt barracks, district of Leslau as of 1 Jan 1943	1,000 beds
Total	1,900 beds

Should the radical solution, i. e., proposal No. 1, be out of question, the necessary conditions for proposals 2 or 3 must be created.

We must keep in mind the conditions of the war deprive us of the possibility of arranging for a fairly adequate treatment of the curable consumptives. To do so would require procuring at least 10,000 more beds. This figure, under the condition that the program is to be carried out within half a year, could not be met.

After a proper examination of all these considerations and circumstances, the creation of a reservation, such as the reservations for lepers, seems to be the most practicable solution. Such a reservation should be able to be created in the shortest time by means of the necessary settlement. Within the reservation one could easily set up conditions for the strict isolation of the strongly contagious.

Even the case of the German consumptives represents an extremely

difficult problem for the Gau. But this cannot be overcome, unless the problem of the Polish consumptives is solved at the same time.

Heil Hitler!

Yours,

[Signed] Dr. Blome

TRANSLATION OF DOCUMENT NO–441
PROSECUTION EXHIBIT 205

AFFIDAVIT OF DEFENDANT RUDOLF BRANDT, 24 OCTOBER 1946, CONCERNING THE PLAN TO EXTERMINATE TUBERCULAR POLISH NATIONALS

I, Rudolf Emil Hermann Brandt, being duly sworn, depose and state:

1. I am the same Rudolf Brandt who on 30 August 1946 swore an affidavit concerning certain low-pressure experiments which were also conducted with test subjects of the Dachau concentration camp without their consent.

2. I am entitled by the same reasons as already stated in paragraphs 1, 2, and 3 of my affidavit of 30 August 1946 to state as follows:

3. In the middle of 1942 the Reich Governor of the Warthegau, Herbert [Arthur(?)] Greiser, suggested to Himmler to annihilate Poles infected with incurable tuberculosis. In submitting this suggestion, Greiser gave as a reason that the Germans in Poland would be exposed to this epidemic. Dr. Kurt Blome, Deptuy Chief of the Main Office for Public Health of the NSDAP, and radiologist Dr. Hohlfelder conferred with Greiser about this matter. Dr. Blome was from time to time with Himmler and supported Greiser's suggestion.

4. The Higher SS and Police Leader, and Chief of the Warthegau, Koppe, further, Mueller of Office IV of the Reich Security Main Office (RSHA), and the Chief of the Reich Security Main Office, Heydrich, were involved in this operation. At the end of 1942 and the beginning of 1943 Greiser carried out the annihilation of the Jews in the Warthegau, and the rounding up of the tubercular Poles was finished at the same time as the rounding up of the Jews. As a result of the suggestions made by Blome and Greiser numerous Poles were exterminated. Many thousands of tubercular Poles were taken to isolation camps where they had to take care of themselves.

I have read the above affidavit in the German language, consisting of one page, and it is true and correct to the best of my knowledge and belief. I was given the opportunity to make changes and corrections in the above affidavit. This affidavit was given by me freely and vol-

untarily without promise of reward, and I was subjected to no threat or duress of any kind.

Nuernberg, 24 October 1946

[Signature] R. BRANDT

TRANSLATION OF DOCUMENT NO–246
PROSECUTION EXHIBIT 196

LETTER FROM GREISER TO HIMMLER, 1 MAY 1942, CONCERNING THE PLAN FOR MASS EXTERMINATION OF TUBERCULAR POLES

Reich Governor of the Reichsgau Wartheland.
Poznan, Schlossfreiheit 13, 1 May 1942
Telephone No. 1823 24

[Handwritten note]
P 802/42

Top Secret

Personal.
To the Reich Leader SS Heinrich Himmler,
Fuehrer Headquarters.

Reich Leader,

The special treatment [Sonderbehandlung] of about 100,000 Jews in the territory of my district [Gau], approved by you in agreement with the Chief of the Reich Security Main Office, SS Obergruppenfuehrer Heydrich, can be completed within the next 2–3 months. I ask you for permission to rescue the district immediately after the measures taken against the Jews, from a menace which is increasing week by week, and use the existing and efficient special commandos for that purpose.

There are about 230,000 people of Polish nationality in my district, who were diagnosed to suffer from tuberculosis. The number of persons infected with open tuberculosis is estimated at about 35,000. This fact has led in an increasingly frightening measure to the infection of Germans who came to the Warthegau perfectly healthy. In particular, reports are received with ever-increasing effect of German children in danger of infection. A considerable number of well-known leading men, especially of the police, have been infected lately and are not available for the war effort because of the necessary medical treatment. The ever-increasing risks were also recognized and appreciated by the deputy of the Reich Leader for Public Health [Reichsgesundheitsfuehrer], Comrade Professor Dr. Blome, as well as by the leader of your X-ray battalion, SS Standartenfuehrer Prof. Dr. Hohlfelder.

Though in Germany proper it is not possible to take appropriate draconic steps against this public plague, I think I could take responsibility for my suggestion to have cases of open tuberculosis exterminated among the Polish race here in the Warthegau. Of course only a Pole should be handed over to such an action who is not only suffering from open tuberculosis, but whose incurability is proved and certified by a public health officer.

Considering the urgency of this project I ask for your approval in principle as soon as possible. This would enable us to make the preparations with all necessary precautions now to get the action against the Poles suffering from open tuberculosis under way, while the action against the Jews is in its closing stages.

Heil Hitler!
[Signature] GREISER

PARTIAL TRANSLATION OF DOCUMENT BLOME 14
BLOME DEFENSE EXHIBIT 6

EXTRACTS FROM A REPORT ON THE GERMAN TUBERCULOSIS CONFERENCE OF 18 TO 20 MARCH 1937, AT WIESBADEN

(Published in Berlin, Publishers: Julius Springer, 1937)

Extract from the report by Dr. Erwin Dorn, chief physician of the Charlottenhoehe Sanatorium, chief physician of the Tuberculosis Welfare Center of the Oberamt Neuenbuerg, Calmbach (Wuerttemberg) concerning Task and Aims of the Method of Treatment and its Application in Consideration of the Awaited Special Laws for the Tubercular Patients

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[Page 770]

In former years, particularly at the beginning of this century, every attempt at a labor treatment of tubercular patients was condemned as useless, as only a limited treatment was known. On the other hand, in countries such as Holland, England, and Switzerland, where treatment lasting many months is possible, labor treatment was firmly established. We all know that several months are frequently needed in order to effect a change by the conservative or radical treatment. Our surgical patients (plastics, plugging, bilateral pneumothorax, premicectory) also require a long time until the severe stage of tuberculosis has been alleviated, and until they themselves again reach full working capacity. In a similar manner to those treated conservatively, these patients frequently remain contagious for the rest of their lives. In the sanatorium they are superfluous, in every day life, useless. But they should not be regarded as wholly incapacitated for years.

The aim of the labor treatment for active tubercular people is to fill this gap between the remedial treatment and full working capacity. It should be carried out in a work-sanatorium or a settlement.

Various conditions are necessary to enable tubercular persons with only a limited working capacity to derive satisfaction from their work. The right type of work must be provided for them; the work periods must be graduated according to the amount of work they can handle, and it must be suited to their capabilities and to what they did in their former life.

The place of work and the tools should be satisfactory. *At a work-sanatorium in favorable climatic surroundings, these requirements are best met if the patients are assigned to factory work.* * * *

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[Page 772]

In my last year's report on the forced treatment of tuberculosis patients, I showed that a patient suffering from open tuberculosis should remain in a work-sanatorium or settlement until the disease no longer presents a peril to himself and to his fellow men.

PARTIAL TRANSLATION OF DOCUMENT BLOME 1
BLOME DEFENSE EXHIBIT 8

EXTRACTS FROM THE AFFIDAVIT OF DR. OSKAR GUNDERMANN, 28 DECEMBER 1946, STATING THAT BLOME OPPOSED THE PLAN TO EXTERMINATE TUBERCULAR POLES AND THAT THE PLAN WAS NEVER CARRIED OUT

* * * * * * *

From the summer of 1940 on I was chief medical officer in the department of the Reich Governor in Poznan.

The frequency of tuberculosis in the region of the Wartheland, at one time incorporated into the Reich, was, according to statistics recorded before 1939—at the time of the Polish Health Administration—considerably higher than in the German Reich. When the administration was taken over, no modern welfare service for tuberculosis for the whole region existed. Among other things, there were insufficient beds to effect a successful treatment and the isolation of tuberculosis patients. The estimates made from the statistical material of infectious tuberculosis cases amounted to a round figure of 20,000 to 25,000 people of the Polish population. To check this tuberculosis epidemic, the authorities immediately began building 40 health offices with modern welfare centers, as well as sanatoria and isolation homes with approximately 2,500 beds for Germans and Poles (the latter under Polish medical direction with Polish doctors and Polish

nursing staff), and these were speedily finished. These measures by the office of the Reich Governor were supported by the superior Reich authority (Health Section of the Reich Ministry of the Interior).

Since the above institutions were able to check the spreading of the tuberculosis epidemic to a certain degree, but particularly owing to the increasing difficulties arising from the war, they were not able to get the urgently needed sanitary measures running effectively, all the medical officers of the Wartheland untiringly continued to warn their superiors and heads of departments urgently of the danger.

The whole affair took an unexpected turn in the autumn of 1942, because the Gauleiter and Reich Governor Greiser supposedly said that in case of necessity he would stop at nothing to check the tuberculosis epidemic effectively in the Wartheland in the interest of the entire population.

* * * * * * *

I thought it my duty to talk personally to the head of the Department of Health in the Reich Ministry of the Interior and the Reich Health Leader, Dr. Conti, in Berlin, about this matter and the entire tuberculosis problem.

* * * * * * *

As I was unable to get a clear answer from Dr. Conti and could not be satisfied with such information as I received, I immediately called on the Deputy Reich Health Leader, Dr. Blome. I knew that he dealt with special questions concerning tuberculosis in the Reich Health Leader's office. From the beginning Blome showed a clearly negative attitude toward any possible solution contrary to humanity or medical ethics. He showed me the draft of a letter addressed to Greiser; I asked him to make a few additions and alterations.

We discussed the formulation of the letter in detail from the point of view of convincing Greiser that an intensive continuation of the health and welfare measures so far taken, and a further extension of the health program set up for the fight against tuberculosis could effectively avert the acute dangers. The suggestion for a large tuberculosis settlement was particularly discussed. This plan was based on smaller examples, and its final aim was the establishment of a widely spread, but nevertheless closed settlement for tuberculosis patients and their families. In this settlement, all modern examination, treatment, isolation, and welfare facilities should be provided for the patients and members of their families who might be in danger.

* * * * * * *

Dr. Blome and I having agreed on the tactics to be taken toward Greiser and on the contents of the said letter, Dr. Blome began, in my presence, to dictate the draft of a new letter.

* * * * * * *

I concluded that the letter from Dr. Blome to Gauleiter Greiser was successful, mainly from the development in the fight against tuberculosis in the Wartheland. The regulation about tuberculosis relief having become effective for the whole Reich territory on 1 April 1943, a similar regulation for protection against tuberculosis could be decreed in the Wartheland in favor of the Polish population. A central office for the fight against tuberculosis was established under the management of a specialist. This office gave the same treatment to German and to Polish cases.

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During my period in office as chief medical officer in Poznan, until January 1945, no tuberculosis patients were "liquidated" in the Wartheland as far as I know. I never received an order for such a measure, much less brought one about either directly or indirectly. On the contrary, the office always tried to give all tuberculosis patients proper treatment.

* * * * * * *

EXTRACT FROM THE TESTIMONY OF DEFENDANT BLOME*

DIRECT EXAMINATION

* * * * * * *

DR. SAUTER: Now, Witness, I come to a different problem. It is the suggestion made at that time that Poles suffering from incurable contagious tuberculosis should be liquidated. You were interrogated in January 1946 at Oberursel concerning your participation in the plan for the extermination of tubercular Poles, and also on 9 and 22 October 1946 here in the prison. Were the statements you made at that time true?

DEFENDANT BLOME: Yes. But I must add that concerning this matter of the tubercular Poles, as far as I recall, I said it was in 1943, while in reality, as the files now show, it took place in 1942. I must also say that my letter to Greiser in November 1942 has been shown to me here. I was asked whether this was my letter, whether I had written this letter. I said "No." I said that because it was not a photostatic copy of the original, but a photostatic copy of a copy. I objected to several things in the letter and did not acknowledge it at that time. They were external matters which occasioned me to make that statement. Later, however, in December, when you took over my case, you gave me this photostatic copy, and I had an opportunity to study it carefully and reconstruct the conditions which existed at the time and, therefore, I now acknowledge this letter as authentic.

Q. It is true, Dr. Blome, that the prosecution learned for the first

*Complete testimony is recorded in mimeographed transcript, 13, 14, 17, 18, 19, 20, 21 March 1947, pp. 4450–4812.

time of this plan to exterminate the Poles through you? Dr. Blome, what can you say about that?

A. Yes. The prosecution learned from me for the first time of this plan. In 1942 I told my interrogator Captain Urbach at Oberursel about it, after he had described the details of the atrocities which I had not known up to that time.

Q. You just said 1942.

A. I meant 1945. I meant December 1945. I beg your pardon. I do not believe that the prosecution had any knowledge of this, at least not at Oberursel.

Q. Dr. Blome, this whole matter begins with a letter from the Reich Governor Greiser dated 1 May 1942. (*NO–246, Pros. Ex. 196.*) Tell us briefly who Greiser was.

A. This was Arthur Greiser, Gauleiter of the Warthegau, the Reich Governor of the Wartheland, and the Reich Defense Commissioner of the Wartheland.

Q. This Gauleiter Greiser, who was a Gauleiter in a district which now belongs to Poland, sent a letter on May 1st to the Reich Leader SS suggesting that Poles suffering from tuberculosis in the Wartheland should be liquidated if the existence of open tuberculosis and the incurability of the patients were established by official doctors. In this connection Greiser writes and (this is what I want to ask you about) I quote, "The increasing dangers were also recognized and appreciated by Deputy Reich Leader of Public Health, Dr. Blome, as well as by the Leader of your X–ray unit, SS Standartenfuehrer, Dr. Hohlfelder." That is the quotation. What can you tell us today about these apparently early discussions between you and Gauleiter Greiser?

A. I talked to Gauleiter Greiser about three times, concerning the combating of tuberculosis in Wartheland, certainly once in the presence of Professor Hohlfelder. These discussions go back to the year 1941. I can recall Greiser once saying that the simplest thing would be to treat the incurable tubercular Poles exactly like the insane by means of euthanasia. I pointed out that the comparison was not valid. The Poles, I also said, were not German citizens. The plan which Greiser was considering was a radical solution but I could not agree to it. When sometime later I learned of the so-called Fuehrer order, according to which the euthanasia action was stopped and prohibited, I considered this matter and Greiser's statement as settled. Then the year 1942 was filled with purely organizational preparation for the tuberculosis action. For example, all the population had to be registered in card index files, Germans as well as Poles; preparations had to be made for a series of X-ray examinations. Then these examinations had to be evaluated, and so on. The latter was a matter for the state health offices, that is the National Socialist welfare organization,

and the X-ray unit which was to carry out the technical side of these examinations. From time to time I had a report from Professor Hohlfelder about the preparations. Only when all prerequisites were fulfilled, did I give my approval for such large scale action. The execution of this action was dependent upon my personal approval. I only took action in this tuberculosis question in the Warthegau when I received alarming reports about an alleged liquidation order from Himmler. I learned of it because at the beginning of November Sturmbannfuehrer Perwitschky came to my office in Berlin and reported to me that Greiser had an order from Himmler to the effect that incurably sick cases of tuberculosis found during the planned examinations in the Wartheland were to be liquidated. Perwitschky belonged to the X-ray unit and was business manager for the society combating tuberculosis. Then I immediately reached an agreement with Perwitschky that I would meet Professor Hohlfelder at Poznan to discuss the matter and to prevent Himmler's and Greiser's plans from being carried out. I went to Poznan and discussed the matter with Hohlfelder. We were both greatly astonished at this order from Himmler. We agreed that this order must not be carried out, and that we as German doctors could not lend our aid to such an action. We discussed the manner in which this Himmler-Greiser plan could be prevented. We decided that I should go to Greiser first of all. I telephoned Greiser from this conference and said that it was very important that I should speak to him. Then I talked to him on the same day, or on the next day. When I asked Greiser whether Himmler's orders for liquidating were correct, he said "Yes." He said he had the order in his hands. I said that I was willing to prevent this plan in any case and explained why. I said that in the first place as a doctor I could not participate in this and, in the second place, I pointed out the political danger connected with such a crime.

Then Greiser agreed that I should write a letter for him which he would pass on to Himmler for a decision. As for Greiser's letter to Himmler of May 1942 (*NO–246*, *Pros. Ex. 196*) which you just mentioned, Dr. Sauter, I learned of it for the first time from files here, and Himmler's opinion concerning my letter of November 1942 I learned of here for the first time too. Up to that time I did not know about Himmler's letter to Greiser. In the letter of May 1942, from Greiser to Himmler, Greiser writes, I quote, "that Hohlfelder and Blome recognized the ever-increasing risks and appreciated them." But he does not say that Hohlfelder and I approved liquidation. The letter does not say that. My basic opinion on the problem is the following: Let us suppose that we in Germany had a valid law for the liquidation of incurably sick persons. Assuming that such a law did exist, it would, of course, be out of the question to apply it to non-Germans. Application in this case would be a crime, especially

during war. Germany had occupied foreign territory and, as an occupying power, had to observe international law in the treatment given to the occupied territories. As for the problem of tuberculosis, I had dealt with it for some time, especially since 1935 when I had incorporated the tuberculosis question into the post-graduate medical training. In 1937 Professor Janker, Bonn, a well-known X-ray specialist, called upon me for aid in developing a new procedure which, with a minimum of cost, would make it possible to examine large groups of the population. This was the so-called X-ray screen photography which was developed. I shall give you a brief explanation of this. Previously for an X-ray picture of the lungs, a film had been needed of 24 by 30 centimeters. This new procedure required a film of about only 4 by 4 centimeters. That is, the so-called Leica size. The pictures were taken with a Leica. The X-ray screen was photographed. The successful development of this procedure meant that for an X-ray photograph, in place of the price of from twelve to thirteen marks, which the social insurance had paid, it now could be produced for about ten pfennigs: that is, less than one percent.

The further value of the development of this process was that one would no longer need several minutes for an X-ray photograph, but this procedure was developed to such an extent that we could take two hundred to three hundred pictures per minute. I developed this screen picture process together with Janker until we reached the results which I have just described. At the X-ray Congress in May 1938 in Munich I made this process public and I stated that with its aid one could begin a large-scale fight against tuberculosis. Only a few people believed my words at the time, and some smiled pityingly. After this congress, Professor Hohlfelder, who was later commander of the X-ray unit, came to me, and working with X-ray science, the optical industry, the film industry, X-ray industry, screen industry, etc., we developed the process during the course of that same year to such an extent that in a short time we were able to X-ray practically every inhabitant in the whole province of Mecklenburg. The procedure was then gradually developed until we could easily have X-rayed ten million or more in Germany per year. Then, during the war, at my instigation, in 1939 and 1940, we X-rayed the population of the whole province of Westphalia; then in 1941, the whole province of Wuerttemberg, including Hohenzollern. Now there was the plan to X-ray the people of Wartheland. Gauleiter Greiser had approached me, because approval had to be obtained from me, and I gave such approval only if all prerequisites were given, so that the cases which were discovered could be given some medical and clinical attention. It had been our experience in these examinations that one percent new tuberculosis cases were discovered which had hitherto been completely undetected. For the Warthegau alone,

with a Polish population of four and one-half millions, that would have meant forty-five thousand new cases of tuberculosis, not counting the ten thousand from among the one million German population. I had withheld my approval for such actions because at that time, with the development of this invention, a plan of irresponsible X-raying was being carried out by various Gauleiters and by large industries. Everyone wanted to take up the battle against tuberculosis but that would have been a disaster unless there had been some check. When whole groups of population were X-rayed, there had to be the necessary preparation of medical supplies from the beginning, otherwise there would have been a catastrophe. Through this action and through these many new cases of tuberculosis which were discovered, I consciously put the state in a difficult situation. I forced the state to issue a new law for the fight against tuberculosis. This law which was issued was the Tuberculosis Aid Law. This law formed the basis for the lung examination of the population of the Wartheland which was actually carried out in 1943–1944. This law, it can be proved, was not only of benefit to the German population in the Warthegau, but also to the Polish population, as is clearly seen from the affidavit of Regierungsdirektor Dr. Gundermann. (*Blome 1*, *Blome Ex. 8.*) Dr. Gundermann was the chief medical officer of the Wartheland; that is, he had the main responsibility for the fight against tuberculosis in this Gau.

Q. Dr. Blome, before we go into the letter of 18 November 1942, I should like to return to the spring of 1942. (*NO–250*, *Pros. Ex. 203.*) We just heard of a letter from Gauleiter Greiser dated May 1942, in which he suggests that Poles suffering from tuberculosis should be liquidated. He writes "that the ever-increasing risks were also recognized and appreciated by the Deputy of the Reich Leader for Public Health, Professor Dr. Blome."

You said that Greiser does not mention that you approved the plan for the liquidation of the Poles. I would be interested to know what your attitude was at that time, in the spring of 1942, towards this plan. Did you approve of the plan to liquidate tubercular Poles? Did you reject it? What did you say about it?

A. In the spring of 1942 I expressed no opinion at all in respect to this plan. The discussions with Greiser, as I said, were in the year 1941, at the time when the euthanasia action was still in operation. In 1942 I did not talk to Greiser about such a plan at all. I did not know that Greiser intended to write this letter in May 1942 to Himmler, or that he did actually write it. I heard about it only here and after Greiser had made his statements in connection with the euthanasia action. But the euthanasia action had been stopped by Hitler's order, and of course I assumed that such ideas on the part of Greiser were settled too. I did not approve of his ideas, as I said before.

Q. Then, if I understand you correctly, you did not deal with this matter in the fall of 1942 when this Perwitschky brought you alarming news?

A. Yes. That is right.

Q. Can you tell us why Gauleiter Greiser discussed this tuberculosis problem with you particularly?

A. The reason was, as I have already said, that the execution of such an action depended on my approval. If I had said the Warthegau was not to be X-rayed, then it would not have been X-rayed, no matter what the Gauleiter did.

Q. Dr. Blome, Gauleiter Greiser was not thinking apparently of X-raying but of liquidating. The letter of 1 May 1942, where he makes the suggestion, speaks only of liquidation. It says nothing about X-raying. I would like to find out how you became involved in this matter, and when you heard of Greiser's plan for the first time, the plan to eliminate the tubercular Poles?

A. Of course Gauleiter Greiser was thinking of X-raying; that is essential for detecting incurable cases of tuberculosis.

Q. Then, Witness, on the 18th of November you wrote a letter. (*NO–250, Pros. Ex. 203.*) This is the letter which the prosecution has described as a "masterpiece of murderous intention." Did you discuss this letter beforehand with the Reich Physician Leader, Dr. Conti?

A. No. After I had talked to Greiser I saw Conti for a short time in Berlin, or I went to see Conti to report to him about the plan and about my talk with Greiser. Dr. Conti said, "What do you want? That's an order from the Reich Leader, that is, Himmler!" Then I told Conti what I had agreed upon with Greiser, and that I would write a letter to that effect to be sent on to Himmler. This he agreed to and also to my writing this letter. But I did not discuss the contents with Dr. Conti. I did not see any point in doing so. This statement of Conti's showed that he knew about this plan of liquidation.

Q. Witness, this letter which you wrote to Gauleiter Greiser, in which you opposed liquidation of the Poles, did you write it by yourself or did you discuss the draft of this letter with anyone?

A. First of all I wrote the letter by myself. After I had returned to Berlin from Poznan I had to go to Munich. When I came back from Munich I wrote this letter. I made various rough drafts. It was not easy. I had discussed the general tactics with Hohlfelder according to which we would start right at the beginning of the letter by appearing to agree to the ideas, but then in the second part of the letter we would list all the political factors which might induce Himmler and the others to give up such an action. It was not easy to write such

a letter. I worried about this letter a great deal until I thought I finally had a right draft.

In my preliminary interrogation an interrogator asked me something to this effect: "Why did you not simply give up your office and resign when you heard about this plan?" My answer is as follows: It would, of course, have been the simplest thing for me to take advantage of this opportunity to give up my position. Then I would have had nothing more to do with the whole matter; at least 40,000 Poles would have been murdered, and I would not be under indictment today on this charge. Please excuse me for saying this, but I must say it, when such a charge is made against me. I will try to speak as dispassionately as possible. Dr. Sauter had just said that the prosecution considers my letter a "masterpiece of murderous intention". I now state the following: Apart from this questionable affidavit of Rudolf Brandt, the prosecution has not produced a single document to prove the murder of tubercular Poles by me. On the contrary, the prosecution has submitted Himmler's reply dated the end of November 1942, according to which Himmler, in answer to my letter, prohibited the liquidation of the tubercular Poles, and this letter expressly says that my suggestion was to be carried out and that this matter was to be used as propaganda. In spite of that, the prosecution makes such charges as these against me. I am accused of being a murderer 10,000 times for a crime which I did not commit but which I prevented, as I can prove. I should like to say something else. The press, of course, has taken up this charge. I cannot hold that against the press. The consequence of this news, however, was that my family, my wife and my little children, are subjected to unpleasantness and even threats. Through this assertion of the prosecution, the name of Blome has been defamed in a way which it does not deserve, especially if it can be proved that I prevented the crime with which I am charged.

MR. HARDY: If it please your Honor, I object to any further comment of this type from the witness.

PRESIDING JUDGE BEALS: Objection overruled. Witness may continue.

DEFENDANT BLOME: I beg your pardon if I got rather excited. I should like to conclude my statement by saying that I hope that this case will be soon cleared up, and that then the press will be chivalrous enough to state that I not only did not commit this crime, but that I actually prevented it.

DR. SAUTER: Mr. President, I should like to discuss with the witness the letter of 18 November 1942 in which the defendant prevented the murder of the Poles. It will take some time. I believe this would be a good time to take a recess.

* * * * * * *

DR. SAUTER: Witness, during the morning session you explained to us among other things the new method of X-ray photography, the so-called screen photography; you stated that using this new method one could take 200 to 300 photographs per minute. Were you not wrong, didn't you mean perhaps per hour and not per minute?

DEFENDANT BLOME: Yes, per hour.

Q. I just wanted to correct that so that it does not appear erroneously in the record. We shall continue, Witness, with the letter which we have repeatedly discussed, the letter of 18 November 1942, regarding the extermination of Poles. (*NO-250, Pros. Ex. 203.*) It is a letter in which you define your attitude towards the proposal made by Greiser, namely to liquidate the tubercular Poles. Do you know the contents of this letter?

A. Yes.

Q. In this letter you made certain proposals. May I ask you to tell us what suggestions you actually made in that letter? Do you need the letter for that purpose?

A. Thank you, I have it. The most suitable suggestion I considered to be my suggestion to create an area in which one could put the tubercular Poles, and I recalled the leper colonies well known throughout the world. I must emphasize that there is a considerable difference between tuberculosis and leprosy.

As I made the last draft of my letter, the leading medical officer of Warthegau was suddenly announced. It was Dr. Gundermann, the highest state medical officer of Warthegau. He reported that he had just come from Dr. Conti, and that he had heard rumors from Warthegau that tubercular Poles were to be liquidated. Dr. Conti had maintained a very evasive attitude toward him, so he had left Dr. Conti without having achieved any results and thereupon he had decided to come to me. I told him that he had come at the most suitable moment, and I explained to him the position as it had developed in the meantime. I told him of my conversation with Hohlfelder and with Greiser, and of the letter which had been decided upon. He was very pleased about it and was also pleased that I shared his attitude of rejection. I showed him my draft letter and he made a few suggestions. The number of geographical details in the letter actually originated from Gundermann. In particular, he emphasized the importance of a special settlement for tubercular Poles and recognized this as the most suitable solution. I had already heard of such suggestions, especially those arising from the tuberculosis meeting in 1937. During that meeting two well-known German tuberculosis experts, Dr. Dorn and Dr. Hein, had lectured on tuberculosis settlements. Very useful experience had been obtained from such tuberculosis settlements, not only in Germany but also in England. When making my suggestion to Himmler I explained in detail how such a suggestion could be realized.

In my letter I explained the tactics that were to be used, taking into consideration the mentality of people like Greiser and Himmler, and made it appear as though I wanted to agree with their liquidation program. Afterwards I cited all the political misgivings I had, naming individual examples. Then I said that in one experiment the people who were seriously ill and those who were contagious would be segregated, and that Polish physicians and Polish nursing personnel would be attached to these seriously ill patients in order to avoid the appearance of a death camp. Every physician knows, and it is also known in lay circles, that if one isolates seriously ill people, such an isolation soon comes to be considered as an isolation for death. That is why I said that the necessary Polish physicians and nursing personnel must be attached to these camps. My best suggestion I considered to be the creation of a colony for all tubercular Poles.

In particular I wished to point out the following in my letter, I said, and I quote: "I could imagine that as the Fuehrer stopped the program in the insane asylums sometime ago, he might at this moment consider 'special treatment' of the incurably sick as unsuitable, and unwise from a political point of view." I mentioned that because Greiser's suggestion in the year 1941 pointed to a comparison with the euthanasia action. In order, however, to be quite sure that these political misgivings also reached Hitler and that the decision did not rest mainly in Himmler's hands, I sent a copy of my letter direct to Martin Bormann.* I furthermore want to point out the following matter. I said: "I consider any secrecy completely impossible." In this connection, I should like to refer to a letter concerning a different action, namely the letter from the Deputy Gauleiter of the Lower Danube, dated 1942, which suggests experiments on the sterilization of national groups such as gypsies. In this letter, contrary to my letter, completely different tactics are used. The Deputy Gauleiter of the Lower Danube stated that one must keep such an action very secret, because otherwise it would have serious consequences from the point of view of the state.

MR. HARDY: Is it the intention of the defendant to put the letter he is referring to in as evidence, or is he merely quoting from his own letter?

PRESIDING JUDGE BEALS: Can counsel for the defendant Blome advise the Tribunal on that point?

DR. SAUTER: This is a letter which has already been used by the prosecution and thus came to the knowledge of the defendant. Therefore he can quote it. It is certainly not necessary to submit this letter once more.

PRESIDING JUDGE BEALS: Would counsel please identify the letter, the exhibit number, and where it may be found?

*Defendant (in absentia) before International Military Tribunal. See Trial of the Major War Criminals, Vols. I–XLII, Nuremberg, 1947.

DR. SAUTER: One moment, please. Mr. President, this letter was submitted by the prosecution concerning sterilization experiments. It was submitted as Document NO–039—I repeat NO–039—Prosecution Exhibit 153. It is a letter from the Deputy Gauleiter of the Lower Danube district addressed to Reich Leader SS Himmler dated 24 August 1942. This letter was already submitted by the prosecution.

* * * * * * *

DR. SAUTER: Doctor, will you please finish your answer?

DEFENDANT BLOME: In this letter the Deputy Gauleiter of the Lower Danube district writes to Himmler, and I quote:

"We are quite clear about the fact that such examination must be considered as an absolute state secret."

That is exactly contrary to the tactics which I used. I say "I think that any secrecy is quite impossible," and I give detailed reasons for this. I will merely give you a short excerpt from my letter. I point out how many Polish workers there are in the German Reich, and that there would be questions from their relatives about their whereabouts. Then I indicate the number of Germans who are related to these Poles. I also mention that, in the case of the Poles, we are concerned with members of a conquered nation. I further point out that certain circles would spread rumors among the population to the effect that similar methods would be used in the case of German tubercular patients in the future. I further show that in connection with the appointment of Professor Brandt as Commissioner General, foreign broadcasts spread reports that Brandt was no longer concerned with the rehabilitation of seriously wounded people, but only with those people who had been slightly wounded. I refer to the reaction which would result in the case of such a crime on the part of the Italian physicians and scientists as well as the entire Italian population. I furthermore refer to the Church, and I then say and quote: "Therefore, I think it is necessary to explain all these points of view to the Fuehrer before undertaking the program."

With reference to my suggestion for a kind of reservation, I say in the last paragraph of my letter, and I quote: "After a proper examination of all these considerations and circumstances, the creation of a reservation such as the lepers colonies seems to be the most practical solution."

Before that I had suggested that these tubercular settlements should be arranged in such a manner that relations who were willing could also be settled there. In this way in addition to the necessary nursing personnel and the necessary Polish physicians, the necessary medical care would be safeguarded.

Q. Witness, you previously referred to your suggestions, and you spoke about a congress on tuberculosis questions in which you participated.

DR. SAUTER: Mr. President, I have an excerpt from the record of this tuberculosis congress. It is a report on the Third International Congress. It is a report on the proceedings of the German Tuberculosis Conference dated 18 to 20 March 1937, which took place at Wiesbaden. Two speeches are reproduced here in excerpt form.

PRESIDING JUDGE BEALS: Counsel, this document is found in supplemental documents?

DR. SAUTER: Yes, in the supplemental volume. In this report a paper by two well-known German tuberculosis experts is mentioned, a Dr. Erwin Dorn, who was the chief physician of a sanatorium for chest diseases at Charlottenhoehe, and a certain Dr. Joachim Hein, who was the director of a sanatorium for chest diseases in Holstein. I am not going to read these papers in detail, but I beg the Tribunal to take judicial notice of them. I submitted these reports of the conference in order to show that the same suggestions which this defendant, Dr. Blome, made in 1942 when writing to Gauleiter Greiser, are also contained here in the year 1937, and were made during the German Tuberculosis Conference. These proposals did not concern foreign tubercular persons, but German tubercular persons.

PRESIDING JUDGE BEALS: Does counsel offer this document into evidence?

DR. SAUTER: It will become exhibit 6, Blome Exhibit 6. Witness, in this letter of 18 December 1942, about which we are speaking now, you really dealt with three proposals: (1) special treatment for the seriously ill persons; (2) most rigorous isolation of the seriously ill persons—that is to say, separation from the outside world; and (3) the creation of a reservation area for all tubercular patients in Poland. Now when reading your letter, one gains the impression—at least one might gain the impression—that you were speaking in favor of your first suggestion in the first part of your letter, namely, the "special treatment" of the seriously ill, which is to say their liquidation as was suggested and desired by Himmler and Greiser.

My question is: Why did you not simply state very frankly in your letter of 18 November 1942 that this liquidation of the incurably ill tubercular Poles, as suggested by Greiser and Himmler, was a crime; that it could under no circumstances be permitted, and that you, Dr. Blome, would have nothing to do with any such proposal? Why did you not write to Greiser on those lines at that time?

DEFENDANT BLOME: I think that I already defined my attitude towards that question very briefly this morning, and I state again, I would have preferred merely to have pointed out the criminal aspects of this proposal in my letter, but I knew the mentality of these men, and it was quite clear to me that the expression of any such point of view could only have had a negative result. In doing that I would not have saved myself, and much less 30,000 tubercular Poles—they

would actually have then been liquidated. If I had not wanted to present my true point of view frankly, I would not have had to think for days about the letter; it would only have been a matter of five or ten minutes. I would just have had to dictate the letter and mail it. I had, however, realized, and it was also the opinion of Professor Hohlfelder, that I would have to make it appear as if I agreed to the plan if I wanted to have any success with my counterproposals. I was convinced that the mention of all the political aspects which might involve danger would be the only effective weapon. The success of my procedure quite clearly speaks for the correctness of my tactics. Yes, Himmler really wanted to carry out this proposal I had made and he wanted to exploit it as propaganda; that is clearly stated in Himmler's letter to Greiser, dated the end of November 1942. The documentary value of my letter can be seen only in the following: It shows, firstly, that during that period of brutal thinking, men like Himmler had no time for any considerations of a humane nature; secondly, only by a clear and definite statement on my part could the crime of the murder of 10,000 Poles be prevented, and I was only concerned with that result.

Q. Witness, the suggestion which you made in your letter was that under No. 2: the most rigorous isolation of the seriously ill persons. With reference to this suggestion, the prosecution considers that during the meeting of 19 December you had the idea of sending these tubercular patients to institutions and I quote: "That opinion was voiced because then the comparatively quick death of these patients would ensue in these institutions."

Was that really your intention, and did you think of any such possibility at that time, that is, when you made the suggestion?

A. On the contrary I cannot recognize the evidence of the prosecution regarding that point as being logical. Had it been my intention to let the patients die, I would not have demanded that they be given the necessary physicians and nursing personnel. In addition, I want to refer to my former testimony on this point.

Q. The other suggestion you made at that time and which is listed under No. 3 of your letter is the creation of a reservation for all tubercular patients. During the same meeting of 19 December the prosecution said with reference to that proposal, and I quote:

> "With this plan, that is, to send all patients into a reservation and thereby isolate them from the rest of the population, you, Dr. Blome, wanted to cause these sick Poles to be left to their fate with very few doctors and scanty nursing personnel. The aim of liquidating these Poles was to be realized in this way."

What do you have to say, Dr. Blome, to this motive which the prosecution imputes to you?

A. This motive is not correct. The contrary can clearly be seen from my letter. In that connection I may refer to my previous explanation regarding my letter. Furthermore, I refer to the affidavit of Dr. Gundermann. (*Blome 1*, *Blome Ex. 8.*) My interest was exactly the contrary to what the prosecution tries to impute to me, for I was planning the very same thing for Germany after the war. If I had been able to carry through such an action, and had been able to show success in that action, it would have been easier for me later on to refer to the plans mentioned during the Tuberculosis Congress of 1937 by pointing out the success I had achieved in the Warthegau. Even today I realize that until we are able to bring about really effective medical treatment, or vaccination against the spread of tuberculosis, the only really practicable and effective solution is the creation of such settlement areas or reservations.

Q. Dr. Blome, from your book, entitled "Physician in Combat", which has been submitted in evidence in its entirety as Blome Exhibit 1, it can be seen that for quite a long time you had waged war against tuberculosis. Can you tell us on the basis of your experiences whether these proposals which you made in your letter of 18 December 1942—that is, either housing the sick in tuberculosis institutions, or placing the consumptives in a reservation area—whether these suggestions were completely different from the manner of combating tuberculosis as practiced in various foreign countries up to that time, or, if not tuberculosis, other infectious diseases of the same importance as tuberculosis?

A. Naturally the plan to set up a tuberculosis settlement on a large scale does not represent anything absolutely new, because, as can be seen from the documents submitted regarding the Tuberculosis Congress, such tuberculosis settlements had existed in England and Holland in addition to Germany, with good results; but, on the other hand, the realization of this settlement idea would make an enormous difference to fight against tuberculosis generally. The war difficulties that existed in 1942 and 1943 did not permit this plan to be realized as suggested by me for the Warthegau. The fight against tuberculosis continued, however, in the usual way, as far as it was possible during the war, and as it was dealt with throughout the Reich for Germans as well.

In other countries, other experiments were made. For instance in the year 1935 certain well-known people in the city of Detroit, in America, made a large-scale experiment for the combat of tuberculosis. After preparations were made the entire population of Detroit was asked, by means of enormous propaganda by press and radio, to submit to an examination for tuberculosis, in order to find out the source of the infection. The city of Detroit had made the necessary facilities available for carrying out the examination and a certain

success was obtained. In particular, nearly the whole of the colored population of Detroit reported for these examinations, whereas the American press, on the other hand, complained that this was not fully the case with the white population.

This action started in 1936 and was continued in 1937. I could not hear anything about the ultimate results because the war had started. All actions such as that action in Detroit, and small settlements in the form of little villages for consumptives, will not solve the entire problem unless done on a large scale. There is no doubt that the problem of tuberculosis has not been tackled on a large scale in the world today. The sole reason for that is that tuberculosis cannot be compared with any other contagious disease such as diphtheria, cholera, typhoid. These epidemics have a shorter course and quickly claim their victims. If that had been the case with tuberculosis the fight against it would have progressed much farther throughout the world. The tragic thing in that problem is the manner of the disease itself, the slow tricky course. That is why, in my opinion, there are nowhere in the world laws which definitely secure the isolation of infectious tubercular subjects, although such plans are being considered at all congresses dealing with tuberculosis all over the world. As far as I know nobody has made a decisive step, and I think the sole reason lies in the slow tricky course of tuberculosis, in spite of the fact that tuberculosis is regarded as having the second highest mortality of all diseases.

Q. In addition to that letter of 18 December 1942 about which we are speaking now, did you take any more steps to frustrate the plan of Greiser, namely, to liquidate all tubercular Poles, and in particular did you turn to Hitler or Himmler personally in that matter?

A. No. I did not speak to Hitler at all throughout the entire war.

Q. How about Himmler?

A. I spoke to Himmler on various occasions, but that was about one year later. At that time I had as yet no official relations with Himmler, and I did not know him. Had this happened one year later, when I already had official contact with Himmler, and had I known him better, I would not have written a letter; I would have approached Himmler personally and would have been able to frustrate the action without having to write a letter. Having written this letter I received a report through Greiser very shortly afterwards to the effect that Himmler had withdrawn his order, and that settled the affair as far as I was concerned. I was only informed that everything was handled in an orderly and legal manner in the Warthegau as regards the examination and the registration of tubercular persons.

Q. Who told you that this plan had been withdrawn on the basis of your suggestion?

A. I heard it from Hohlfelder as well as from Perwitschky.

Q. These were the two men—

A. Hohlfelder was the commanding officer of the X-ray unit, and Perwitschky was the business manager of the association for combating tuberculosis.

Q. Did you find out how the rejection of this plan really came about, and, in particular, do you know that when Greiser's letter was shown to him Himmler said that Hitler himself had to decide, and that Hitler himself actually did decide that this plan was to be rejected for the reasons which you, Dr. Blome, stated in your letter to Greiser? Did you hear about that later?

A. At that time I only learned from Professor Hohlfelder and Perwitschky that the reasons stated in my letter had moved Hitler to withdraw his order. I only heard of Himmler's letter here in this courtroom, through the documents, and I am, therefore, very grateful to the prosecution for not having withheld this letter from me.

Q. Witness, when you say that this plan of Greiser's was frustrated because of you, I must remind you of what the prosecution said here on 9 December in this courtroom. The prosecution said at that time, "We shall introduce evidence to show that the program was in fact carried out at the end of 1942 and the beginning of 1943 * * *." And by that, the program for the liquidation of the tubercular Poles was meant. Further, "that as a result of the suggestions made by Blome and Greiser, many Poles were ruthlessly exterminated and that others were taken to isolated camps, utterly lacking in medical facilities where thousands of them died." These were statements made by prosecution. I must again ask you very definitely, did you at any time later hear that on the basis of these proposals tubercular Poles were, in effect, exterminated?

A. No. The assertions of the prosecution are not true. Nothing happened to one Pole within the framework of this tubercular action in the Warthegau. On the contrary they received decent medical treatment.

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D. Euthanasia

a. Introduction

The defendants Karl Brandt, Blome, Brack, and Hoven were charged with participation in and responsibility for the execution of the so-called "Euthanasia Program" in the course of which hundreds of thousands of human beings, including nationals of German occupied countries, were murdered (pars. 9 and 14 of the indictment).

On this charge the defendants Karl Brandt, Brack, and Hoven were convicted, and the defendant Blome was acquitted.

The prosecution's summation of the evidence on euthanasia is contained in its closing briefs against the defendants Karl Brandt and Brack. Extracts from these briefs are set forth below on pages 795 to 813. A corresponding summation of the evidence by the defense on this program has been selected from the closing brief for the defendant Karl Brandt and from the final plea for the defendant Brack. It appears below on pages 813 to 839. This argumentation is followed by selections from the evidence on pages 842 to 896.

b. Selections from the Argumentation of the Prosecution

EXTRACTS FROM THE CLOSING BRIEF AGAINST THE DEFENDANT KARL BRANDT

* * * * * * *

The Euthanasia Program

A. *Procedure*

On 1 September 1939 Hitler charged the defendant Karl Brandt and Reichsleiter Bouhler with the execution of the Euthanasia Program. The letter of appointment stated:

> "Reichsleiter Bouhler and Dr. Brandt, M. D., are charged with the responsibility of enlarging the authority of certain physicians to be designated by name in such a manner that persons who, according to human judgment, are incurable can, upon a most careful diagnosis of their condition of sickness, be accorded a mercy death." (*630–PS, Pros. Ex. 330.*)

This document in no way limited the application of euthanasia to insane persons but included anyone who might be designated as "incurable."

The witness Mennecke testified that the program was carried out in the following way:

Every German mental institution received questionnaires from the Reich Ministry of the Interior which were to be completed for each inmate of the institution and to be sent back to the Reich Ministry of the Interior. Experts then had to examine the questionnaires after they had been photostated; they had to express their medical opinion on them, and had to return them, with their opinion, to the Reichsarbeitsgemeinschaft (Reich Labor Association). (*Tr. pp. 1872, 1873.*)

This Reichsarbeitsgemeinschaft cooperated with the "Stiftung" (Charitable Foundation for Institutional Care), and the Patients Transport Corporation. The "Stiftung" was in charge of the financial side of the program, while the Patients Transport Corporation

was used when patients were moved from one institution to another in order to bring them closer to the euthanasia institutions and finally into the euthanasia institutions themselves. These three organizations, Reichsarbeitsgemeinschaft, "Stiftung," and Patients Transport Corporation, were in fact camouflaged names for the operation of the Euthanasia Program and were under the supervision of one management. They did not work independently but together. (*Tr. p. 1874.*)

As to the questionnaires, three experts received photostated copies, and, independently of each other, they expressed their opinion on individual cases. Then so-called top experts expressed their opinion. A list was made up of the patients who were judged subject to euthanasia, and the patients were removed from the institution to so-called collecting points, and from there were transferred to euthanasia institutes. (*Tr. pp. 1877, 1878.*) Non-German nationals and Jews were subjected to euthanasia as well as Germans. (*Tr. p. 1881.*)

The activities of the experts were extended in the early summer of 1940 to inmates of concentration camps. A doctors commission, which consisted of doctors and officials from the Euthanasia Program, filled out the questionnaires on inmates from among those who had been preliminarily selected by the camp doctors. Numerous concentration camps were visited, some of them twice, in the period between 1940 and the end of 1941. (*Tr. pp. 1882, 1883.*) Dr. Mennecke, who visited a number of concentration camps to select inmates, received the orders for these activities from the top experts in the Euthanasia Program and from the defendant Brack. (*Tr. p. 1882.*) Announcements about these trips were made from the Berlin agency of the program to the individual concentration camps. (*Tr. p. 1885.*) Non-German Nationals and Jews who were inmates of concentration camps were subjected to the Euthanasia Program in extensive numbers. (*Tr. p. 1887.*)

Another function of the Euthanasia Program was the killing of mentally and bodily deficient children. The witness Walter Schmidt testified that the agency which handled this part of the program was called the Reich Committee for Research on Hereditary and Constitutional Severe Diseases [Reichsausschuss zur wissenschaftlichen Erfassung von erb-und anlagebedingten schweren Leiden]. The questionnaires were filled out by the health departments, the chief of children's clinics, physicians, doctors, midwives, hospitals, etc., and reports were made to Dr. Linden's office in Berlin. Linden was a member of the Ministry of the Interior. There a committee of chief experts, on the strength of these reports, decreed euthanasia through so-called authorizing orders in the form of a photostatic copy of the report, which had been approved in writing. These activities continued until 1944. (*Tr. pp. 1833, 1834.*) Schmidt himself was in charge

of a special department for the killing of such deformed children. (*Tr. p. 1833.*)

Workers from the occupied eastern territories who had become unfit for labor were executed pursuant to the Euthanasia Program. Busses belonging to the Patients Transport Corporation, which were operated by the personnel of the Patients Transport Corporation, took these victims to the extermination center of Hadamar, where they were killed. (*Tr. pp. 1842–1845; NO–1116, Pros. Ex. 415.*)

This evidence on the method of carrying out the program is corroborated by the affidavit of the defendant Brack (*NO–426, Pros. Ex. 160*), the affidavit of Pauline Kneissler (*NO–470, Pros. Ex. 332*), the chart drawn by Brack (*NO–253, Pros. Ex. 331*), as well as numerous other documents in the record.

The evidence concerning the activities of the top experts and experts of the Euthanasia Program in the various concentration camps is corroborated by the affidavit of the camp doctor of the Dachau concentration camp, Dr. Muthig (*NO–2799, Pros. Ex. 497*), who states that in the fall of 1941, Professor Heyde, as leader of a commission of four psychiatrists, came to the Dachau concentration camp. This doctors commission selected inmates, unable to work, for extermination by gas. Heyde was the first top expert of the Euthanasia Program. (*Tr. p. 2495.*) The affidavit of Dr. Gorgass reveals that he and Dr. Schumann, both of whom were active in the Euthanasia Program, visited the Buchenwald concentration camp in June 1941. Gorgass states explicitly that the purpose of this trip was to acquaint himself with the assignment of concentration camp inmates to euthanasia institutions. This visit was made on the order of Brandt, and was transmitted by the defendant Brack. (*NO–3010, Pros. Ex. 503.*)

B. *Non-German Nationals and Jews*

Non-German nationals and Jews, who were inmates of the concentration camps, were victims of the Euthanasia Program which operated in these camps under the code name "14 f 13." (*NO–429, Pros. Ex. 281.*)

A few documents submitted by the prosecution on one "14 f 13" action in Gross-Rosen show how the Euthanasia Program operated in concentration camps. The list of concentration camp inmates of the Gross-Rosen concentration camp, who were sent to the Bernburg euthanasia station for extermination, contains many names of non-German nationals and non-German Jews. (*NO–158, Pros. Ex. 410.*) Jews in protective custody, Poles in protective custody, Jews who were habitual criminals, Jews who were "shirkers," Jews who "defiled the race," Czech "shirkers," and Czechs in protective custody were among the inmates selected by the camp physicians for "examination" by the experts. (*1151–PS, Pros. Ex. 411.*)

By comparing the names on the lists contained on Documents NO–158 and 1151–PS, it is proved that, of the 240 names listed for extermination in the Bernburg euthanasia station, at least 51 were of Polish or Czech nationality. How many of the Jews listed were of non-German nationality cannot be ascertained from these documents, but a substantial number of them were born in countries other than Germany, as the list contained in Document NO–158 shows, and it is therefore apparent that a further substantial number of the inmates selected for extermination were of non-German nationality. (*NO–158, Pros. Ex. 410; 1151–PS, Pros. Ex. 411.*)

On 17 March 1942, 70 inmates were transferred to Bernburg for extermination. (*NO–1873, Pros. Ex. 556.*) Of these, 27 of the non-Jewish prisoners on the transport list were of Czech or Polish nationality. Compare transport list with list of inmates originally selected in Gross-Rosen. (*1151–PS, Pros. Ex. 411.*) On 19 March 1942 an additional 57 inmates arrived at Bernburg from Gross-Rosen. (*NO–158, Pros. Ex. 410.*) Of these, 15 of the non-Jewish prisoners of the transport list were of Czech or Polish nationality. Thus, of the total of 127 inmates proved to have been sent to Bernburg in March 1942, at least 42, or one-third of the total, were non-German citizens forcibly detained in an enemy country. That all of these inmates were exterminated in Bernburg is conclusively proved by the laconic report from Gross-Rosen to the Economic and Administrative Main Office that "special treatment of 127 prisoners was concluded on 2 April 1942." (*1234–PS, Pros. Ex. 555.*)

This evidence as to Action 14 f 13 is amplified by the testimony of the witnesses Neff (*Tr. pp. 600–605*), Kogon (*Tr. pp. 1210–13*), Roemhild (*Tr. pp. 1634–37, 1641*), and Holl (*Tr. p. 1060*).

Non-German nationals and Jews other than those in concentration camps were not exempt from the program, and many of them were killed. Besides the evidence cited under A above, there is ample proof that non-German nationals were subjected to extermination from the beginning of 1940 through the war. (*NO–1135, Pros. Ex. 334; NO–818, Pros. Ex. 373.*) Jews of German and Polish nationality and stateless Jews were also subjected to the program. (*NO–1310, Pros. Ex. 337.*) Polish and Russian nationals and other non-German nationals were subjected to the program. (*NO–720, Pros. Ex. 366.*)

The questionnaires had a space provided for "race", being defined: German or similar blood (of German blood), Jew, Jewish mixed breed Grades 1 or 2, Negro (mixed breed). (*1696–PS, Pros. Ex. 357.*) This question would have been completely unnecessary if non-Germans were exempted from the program. Questionnaires had to be filled out about all patients who were not of German nationality or German related blood, indicating their race and nationality. (*NO–825, Pros.*

Ex. 358.) These questionnaires had to be processed by the experts. (*Tr. p. 1881.*) Those who were active in euthanasia never received an order that non-German nationals were to be excluded from the program. (*NO–817, Pros. Ex. 368.*) The witnesses Mennecke (*Tr. pp. 1877, 1922*) and Schmidt (*Tr. pp. 1860–1*) also testified to this effect. Hugo Suchomel, LL. D., the highest official after the Minister in the Austrian Federal Ministry of Justice, says in his affidavit that when Brack, as representative of the defendant Brandt, gave a lecture on euthanasia in the Ministry of Justice in 1942, he enumerated, as the classes of persons who were exempted from the program, the war-wounded and persons who had become insane as a result of air attacks. Foreigners and Jews were not mentioned among the groups of persons who were excluded. (*NO–2353, Pros. Ex. 557.*) Brack admits having held the lecture. (*Tr. p. 7589.*)

As early as 1939 inmates of insane asylums in occupied Poland were killed. (*3816–PS, Pros. Ex. 370.*) In the autumn of 1940, funds for the evacuation of 1,558 inmates of mental institutions of East Prussia and approximately 250 to 300 insane Poles were made available by the defendant Brack, who was the administrative executive of the Euthanasia Program. As these transfers were carried out by a special detachment (Sonderkommando) of the infamous SD, which was used for special tasks, there is no doubt that these insane Poles were killed. (*NO–2909, Pros. Ex. 500; NO–2911, Pros. Ex. 501.*) In September 1941, an order was issued that the inmates of the insane asylums in Russia, in the occupation zone of the German Army Group "Nord," were to be killed. (*NO–1758, Pros. Ex. 444.*)

Eastern workers were also dealt with. (*NO–1430, Pros. Ex. 429; NO–1436, Pros. Ex. 430.*) Eastern workers, who had been forcibly brought into Germany, who were no longer able to work, and who were considered a burden on the mental institutions of Germany, were brought together in a collecting institution and, unless they could be discharged in a matter of six weeks, they were exterminated under the Euthanasia Program. (*NO–891, Pros. Ex. 414; NO–1116, Pros. Ex. 415.*) Half-Jewish healthy children (*NO–1427, Pros. Ex. 431*) and adult gypsies (*3882–PS, Pros. Ex. 371*) were also killed.

C. *Inadequate Examination and Lack of Supervision*

The selection and examination of the persons who were subjected to euthanasia were criminally negligent and inadequate.

The defendant Karl Brandt testified that the doctors in the Euthanasia Program were given enormous responsibility. (*Tr. p. 2425.*) He, together with Bouhler, had authority over the physicians who were participating in the program. (*Tr. p. 2408.*) He admitted, however, that he did not make observation in, or visits to, insane asylums. He was only once in the Bethel insane asylum and visited a special clinic

in Kassel. He admitted having no expert knowledge in the field of psychiatry. (*Tr. p. 2470.*) He, the doctor of the two persons who were charged by Hitler with the execution of euthanasia (Bouhler was not a doctor), authorized the doctors to administer euthanasia. He did not make investigations as to the medical abilities of these men. (*Tr. p. 2476.*) He does not know one single name of the total of ten to fifteen doctors who, according to his testimony, were charged with the execution of euthanasia. (*Tr. pp. 2478–9.*) Brandt testified that he only visited one of the extermination stations, Grafeneck, in 1940, one time (*Tr. p. 2480*), and never went to an observation station. (*Tr. p. 2481.*) In winter 1939–1940, however, he visited, together with the defendant Brack, Bouhler, and Conti, the euthanasia station of Brandenburg, where the first gas chamber was set up. The purpose of this visit was to observe a test experiment in which four insane persons were gassed. (*Tr. pp. 7645–6.*)

Victims of euthanasia were condemned to death by so-called top experts who had never so much as seen the patient. The victims were only superficially examined on the basis of questionnaires. (*NO–470, Pros. Ex. 332.*) Pfannmueller, an expert, received no less than 159 shipments of questionnaires, averaging between 200 and 300 questionnaires each, prior to 15 April 1941, for judgment as to life and death. (*NO–1129, Pros. Ex. 354; NO–1130, Pros. Ex. 355.*) Since his main occupation was that of manager of an insane asylum, his judgment of the questionnaires was only a secondary activity. In a period of 18 days, this same expert passed judgment on no less than 2,058 questionnaires. (*NO–1129, Pros. Ex. 354; Tr. p. 7384.*)

Questionnaires on patients who were in an asylum for as short a time as one month were filled out and formed the basis for judgment as to whether the particular inmate should be killed. (*NO–825, Pros. Ex. 358.*) Many of these questionnaires were inadequately completed so that it was impossible in any event to form a clear medical opinion. Experts were also exposed to pressure to induce them to give positive opinions. (*Tr. p. 1881.*) Unanimous opinion of the experts was not necessary to bring about a positive judgment which would condemn the patient to be killed. The dissenting opinion of one expert did not suffice to save the life of the patient. (*Tr. pp. 1907–8.*)

In a concentration camp 105 Aryans were "examined" by the expert Mennecke in an afternoon. The "examination" of 1,200 Jews, which consisted in the transcription of the reason for their arrest from the files to the reports, took only a few days. In a letter to his wife, Mennecke himself put the word "examination" in quotation marks. It is impossible that any kind of mental examination of the patients was carried out. (*Tr. p. 1892; NO–907, Pros. Ex. 412.*) In fact, these Jews were mentally and physically healthy. (*Tr. p. 1893.*) It was

impossible for Dr. Heyde and his doctors commission, which was active in the Dachau concentration camp, to examine the great number of inmates selected in the short time they spent there. The examination consisted solely in the cursory study of personal records in the presence of the inmate. (*NO–2799, Pros. Ex. 497.*) Doctors Schumann and Gorgass screened approximately 100 concentration camp inmates during a one day's visit in the Buchenwald concentration camp. (*NO–3010, Pros. Ex. 503.*)

It was not the degree of insanity which was the decisive factor in the decision as to whether or not the inmates should be killed, but rather their usefulness for work. The manner of employment, the value of work, if possible compared with the average performance of healthy persons, had to be carefully filled out in the questionnaires. (*1696–PS, Pros. Ex. 357.*) Valuable workers were not sent to euthanasia stations. (*3865–PS, Pros. Ex. 365.*)

Patients who had arteriosclerosis, tuberculosis, cancer, and other disabling illnesses were included in the program. (*3896–PS, Pros. Ex. 372.*) "Useless eaters" were starved to death. (*3816–PS, Pros. Ex. 370; NO–823, Pros. Ex. 399.*) Persons who no longer had any value to the state were considered "useless eaters." It was pointed out that during the war healthy people had to give up their lives while these severely ill people continued to live, and would continue to live unless euthanasia was carried out. In addition, it was stated the lack of food and nursing personnel justified the elimination of these people. (*Tr. p. 1906.*) Concentration camp inmates were examined as to their capacity for work and their political reliability and were selected accordingly for euthanasia. (*NO–2799, Pros. Ex. 497.*) Questionnaires were completed on concentration camp inmates who were not insane. (*NO–3010, Pros. Ex. 503.*) Prior to 27 April 1943, Action 14 f 13 encompassed the execution not only of insane persons, but persons suffering from tuberculosis, bedridden individuals, and others unfit for manual work. (*NO–1007, Pros. Ex. 413.*) Only inmates who were no longer fit for work were to be brought before the examining commission. (*1151–PS, Pros. Ex. 411.*)

In the case of killing of children, a previous consultation with the parents or relatives did not take place. (*3864–PS, Pros. Ex. 367.*) The defense witness Pfannmueller testified that, after having received authorization to kill the individual child, he invited the relatives to visit the child because it was sick. However, he never notified the parents or guardians that he was going to kill the child, as this was a top secret matter. (*Tr. p. 7394.*) From the documents submitted by the defendant Brack, it is clear that the parents were deceived about the purpose of the transfer of the children to institutions where they were to be killed. It was the business of the medical officers to induce the parents to send their children to such institutions. To accomplish

this, the parents were told that in the case of individual diseases there was a possibility of achieving certain successes with treatment. (*Brack 52*, *Brack Ex. 43; Tr. p. 7717.*) The parents were told that the best care would be taken of the child in such institutions and everything possible in the way of modern therapy would be carried out. (*Brack 51*, *Brack Ex. 42.*) From these documents it is clear that the parents and relatives were not only not asked for their consent in the case of killing of children, but were deceived in order to make the transfer to a euthanasia institution possible. A letter from the Reich Committee for Research on Hereditary and Constitutional Severe Diseases to the Eichberg Sanatorium shows on its face that, in the case of euthanasia of children, the consent of the parents was not sought. (*NO–890*, *Pros. Ex. 443.*) This evidence is corroborated by the affidavit of Dr. Suchomel. (*NO–2253*, *Pros. Ex. 557.*) The defendant Brack testified that the consent of the parents to the killing of children was an absolute prerequisite. The medical officers who made the arrangements for the transfer of the children to the killing stations were allegedly charged with the task of informing the parents and requesting their consent. This statement is in contradiction to Brack's own documents, which clearly show what the parents really were told, as well as the top secret character of the program. The proof has further shown that Pfannmueller himself was one of the doctors who had, according to the decree of the Minister of the Interior of 18 August 1939, to report deformed and deficient children. (*NO–3355*, *Pros. Ex. 553.*) He himself testified that he never informed the parents about the fate their children had to expect. Brandt admitted that in the case of the killing of insane adults, the consent of the relatives was not requested and their opinion not heard. (*Tr. pp. 2427–8.*)

There is abundant proof that the German public was horrified by euthanasia and the manner of its execution. A police report stated:

> "The wildest scenes imaginable are reported to have taken place, as some of these people did not board the bus voluntarily and were therefore forced to do so by the accompanying personnel. There were people who were imbeciles and feeble-minded, and were said to have other epileptic illnesses as well, and whose upkeep the state and other public bodies up till now had to provide for completely, or at least for the greater part. People went so far as to formulate and disseminate more or less the following assertion: 'The state must be in a bad way now or it could not happen that these poor people should simply be sent to their death solely in order that the means, which until now have been used for the upkeep of these people, are made available for the prosecution of the war.'" (*D–906*, *Pros. Ex. 376.*)

D. General Extermination of the Jews

Personnel active in the Euthanasia Program also took part in the extermination of the Jews in the East from about 1941 until the liberation of the eastern territories. Some time in the second half of 1941 part of the personnel, who were until then executing the Euthanasia Program in Germany, was sent to Lublin and put at the disposal of SS Brigadefuehrer Globocnik in order to assist in the mass extermination of the Jews, which was then common knowledge in the higher circles of the NSDAP. Among the doctors who assisted in the extermination of the Jews were Drs. Eberle and Schumann, both of whom had been previously active in the Euthanasia Program in Germany. All of this Brack admitted in his pretrial affidavit:

"The order to send these men to the East could only have been given by Himmler to Brandt, possibly through Bouhler." (*NO–426, Pros. Ex. 160.*)

The connection between the "Stiftung" (Charitable Foundation for Institutional Care) and the extermination camps in Lublin was also known to the lower employees of the euthanasia stations. (*NO–470, Pros. Ex. 332.*) The witness Gorgass stated in his affidavit that Police Captain Wirth told him, late in the summer of 1941, that he had been transferred by the Foundation for Institutional Care (which was one of the code names under which the Euthanasia Program operated) to a euthanasia institute in the Lublin area. (*NO–3010, Pros. Ex. 503.*) The SS judge, Dr. Morgen, who investigated the Jewish extermination program in Lublin, testified before the International Military Tribunal that Wirth, having previously carried out the task of removing the incurably insane, was a specialist in mass destruction of human beings. The office from which Wirth obtained his orders was Berlin, Tiergartenstrasse, and among the people who were connected with this operation was Blankenburg. (*NO–2614, Pros. Ex. 504.*) Brack admitted that Wirth was an official of the Brandenburg euthanasia station. (*Tr. p. 7733.*) Brandt visited Brandenburg in the winter of 1939–40. (*Tr. pp. 7645–6.*) The central office for the Euthanasia Program was set up in Tiergartenstrasse 4, and Blankenburg was Brack's deputy in the Euthanasia Program. (*Tr. pp. 7563 and 7707.*)

The defendant Brack reported to Himmler about these activities on 23 June 1942, as follows:

"On the instructions of Reich Leader Bouhler I placed some of my men—already some time ago—at the disposal of Brigadefuehrer Globocnik to execute his special mission. On his renewed request I have now transferred additional personnel. On this occasion Brigadefuehrer Globocnik stated his opinion that the whole Jew action should be completed as quickly as possible, so that one would not get caught in the middle of it one day if some difficulties should

make a stoppage of the action necessary. You yourself, Reich Leader, have already expressed your view that work should progress quickly for reasons of camouflage alone * * *." (*NO–205, Pros. Ex. 163.*)

The affidavit of Kurt Gerstein, which also mentions Wirth, gives a vivid description of the terrible way in which the victims were killed by the thousands by order of Globocnik. (*1553–PS, Pros. Ex. 428.*)

In October 1941, Brack, the administrative head of the Euthanasia Program, forwarded plans whereby Jews who were unable to work should be exterminated by gas. He declared his readiness to send some of his assistants and especially his chemist, Kallmeyer, to the East, where the necessary gassing apparatus could be easily manufactured. Eichmann, whom Hitler had charged with the extermination of the Jews, was in agreement with these plans. Consequently, there were "no objections to doing away with those Jews who are unable to work, by means of the Brack remedy". (*NO–365, Pros. Ex. 507.*)

Kallmeyer, who was charged with the manufacture of the gassing apparatus and equipment, had been trained for this task in the Euthanasia Program. Previously he had been responsible for the proper operation of the gas chambers of the different euthanasia institutions. (*Tr. p. 7743.*) According to Eichmann's own estimate, four million Jews were killed in extermination institutions. (*NO–2737, Pros. Ex. 505.*)

E. *Legality*

The evidence outlined above makes it clear that the Euthanasia Program can only be described as mass murder. This Tribunal is not called upon to define with juridical nicety what a state may lawfully legislate with respect to euthanasia. The prosecution asks only that this Tribunal find, as other tribunals have already held, that there was no valid law in the Third Reich permitting euthanasia, and that the execution of persons under the guise of euthanasia, with the connivance and assistance of certain defendants in this dock, constituted the crime of murder—a war crime and a crime against humanity.

The first and foremost authority on the legality of euthanasia as practiced under the Nazis is in the judgment of the International Military Tribunal.[1]

These findings draw no distinction between German nationals executed under the program and non-German nationals. These executions are described with the word "murders" and constitute war crimes and crimes against humanity under the Charter and Control Council Law No. 10. This was one of the principal crimes which led to the judgment of guilty and the sentence of death against Frick.[2]

[1] Trial of the Major War Criminals, vol. I, pp. 247, 301, Nuremberg, 1947.

[2] Defendant in case before International Military Tribunal. See Trial of the Major War Criminals, Vols. I–XLII, Nuremberg, 1947.

The Review of the Deputy Theater Judge Advocate in the case of the U. S. *vs.* Klein, Wahlman, et al., held at Weisbaden, Germany, from 8 October through 15 October 1945 is a clear precedent that the execution of non-German nationals pursuant to the Euthanasia Program was a crime. (*NO–1116, Pros. Ex. 415.*)

The defendants were there charged with the execution of some 400 persons of Polish and Russian nationality, alleged to be suffering from incurable tuberculosis, at the Hadamar euthanasia station between July 1944 and April 1945. They were not charged with murdering German nationals and that issue was not considered. After taking judicial notice of the fact that foreign laborers were pressed for service in Germany, the reviewing authority held that the killings in issue were a violation of the international laws of war and of Article 46 of The Hague Convention. Three of the seven defendants were sentenced to death.

According to German law, euthanasia was nothing other than murder. Paragraph 211 of the German Criminal Code, in its old form reads:

"Whoever kills a person willfully will be punished by death for murder if the killing was premeditated."

In the new form, which was in effect from 4 September 1941 on, the section stated:

"The murderer will be punished by death.

"A murderer is one who kills a person out of sheer desire to murder, for the satisfaction of the sexual instincts, for covetousness or other vile motives; one who kills another maliciously or cruelly, or by publicly dangerous means, or to create the preconditions for another punishable action, or to conceal such an action.

"Certain exceptional cases where capital punishment is not appropriate will be punished by life sentence." (*NO–705.*[1])

For expert commentaries on the legality of euthanasia, see NO–708 and NO–706.[2]

The defense witness Hans Lammers, a Germán legal expert, testified that the Hitler letter to Bouhler and Brandt was not a law, and that official legislation was necessary to legalize euthanasia. (*Tr. pp. 2672–2679.*) The Reich Minister of Justice, Guertner, on 24 July 1940, wrote a letter to Lammers informing him that, as the Fuehrer had refused to issue a law it was necessary to discontinue immediately the secret extermination of insane persons. (*NO–832, Pros. Ex. 393.*) A copy of this letter was sent to Bouhler on 27 July 1940. (*NO–833, Pros. Ex. 394.*)

During Brack's lecture in the Ministry of Justice, referred to in B above, the legal authorities present were completely misinformed

[1] Objection to admission in evidence sustained.
[2] Ibid.

about the extent of the program. From the remarks of the speaker, the impression was obtained that only a very limited circle of persons, at the utmost several hundred, throughout Germany, Austria, and the Protectorate Bohemia and Moravia, would be affected. The opinion created was that only very dangerous patients and delirious maniacs who might injure themselves would be subjected to the program. (*NO–2253, Pros. Ex. 557.*) This obviously was done to quiet the misgivings of the persons present. Brack, when questioned as to whether, during the lecture, he gave an approximate number of persons who would be subjected to euthanasia, could or would not give any answer. Contrary to the impression created during the conference in the Ministry of Justice, the defendants Brandt and Brack now admit that about 50,000 to 60,000 people were killed in the Euthanasia Program in Germany and Austria alone. (*Tr. p. 2465; Tr. p. 7610.*)

Since the end of the war, German and Austrian courts have repeatedly held that the killing of persons of *any* nationality under the guise of euthanasia was in violation of the German Criminal Code and punishable as murder. The witnesses Schmidt and Mennecke who testified before this Tribunal had themselves been convicted by a German court for participation in the Euthanasia Program and sentenced to life imprisonment and death, respectively.

* * * * * * *

The Court of Assizes in Berlin, at the session on 25 March 1946, found the defendants Hilde Wernicke and Helene Wieczorek guilty of murder and sentenced them to death.

* * * * * * *

The Court of Appeals in the same case rejected the appeals of both defendants. The following quotation from the findings may be of interest:

* * * * * * *

"*It cannot be mistaken that the defendants Wernicke and Wieczorek are only the last links of a long chain, and that they are preceded by persons whose guilt is still greater.*" [Emphasis added.] (*NO. 447**).

Thus it is established that euthanasia was murder according to German law.

In connection with this question, it is again pointed out that the whole program was kept completely secret. Hitler's letter of 1 September 1939 (*Tr. p. 1516*) marked "Top Secret" was never published, and the Minister of Justice received a copy of it only one year after its issuance. (*630–PS, Pros. Ex. 330.*) Transfers of inmates of insane asylums to euthanasia stations were allegedly carried out by the order of the Reich Defense Commissioner. (*NO–1133, Pros. Ex. 335.*)

*Objection to admission in evidence sustained.

The officials active in the program had to sign a written oath of secrecy. (*NO–1312, Pros. Ex. 338; NO–1311, Pros. Ex. 339.*) The doctors who performed euthanasia were warned that they would be severely punished if they sabotaged the work. (*Tr. p. 1894.*) The whole program of euthanasia was to be kept secret, as they were told from the beginning that it was a top secret matter. The reason given was to avoid unrest among the population. Breach of secrecy was considered sabotage. (*Tr. p. 1923.*) Others had to sign a written oath binding them to secrecy. It was known that the result of breach of this oath was confinement in a concentration camp. (*Tr. p. 1826.*)

F. *Personal Responsibility of Karl Brandt*

Brandt was put in charge of the program, together with Bouhler, by the above-quoted letter of Hitler of 1 September 1939. His position as highest authority in the Euthanasia Program is outlined in the affidavit of Dr. Boehm, one of the oldest members of the NSDAP. When, in November 1940, Boehm approached Martin Borman* with the request to obtain an audience with Hitler to complain about the execution of the Euthanasia Program, Bormann referred him to Brandt as the responsible authority for the execution of euthanasia. As a result, Boehm had a discussion with Brandt and when he complained, among other things, that the Euthanasia Program was not regulated by law and should not be carried out in a secret manner, Brandt admitted that the Minister of Justice, Guertner, had also urged legislation. From his conversation with Bormann and Brandt, Boehm was sure that Brandt was the leading personality in the program. (*NO–3059, Pros. Ex. 558.*) Brandt admitted that it was necessary to set up a special organization to carry out euthanasia. (*Tr. p. 2407.*)

He, together with Bouhler, had authority over the physicians who were participating in this program, and furthermore he had to keep Hitler informed from the medical point of view (*English translation is garbled, therefore reference is made to German Tr. p. 2420*) and had to maintain contact with Bouhler. (*Tr. p. 2408.*) He further admitted that authorizations for the killing of children were submitted to him and Bouhler. (*Tr. p. 2544.*)

He stated that he resigned his job some time in 1942. (*Tr. p. 2433.*) While this is of no material significance, it is established that he held his position as the leading figure in the program until 1944. Dr. Ludwig Sprauer, in his affidavit, stated:

"I heard the name of Professor Dr. Karl Brandt for the first time at a conference in Berlin in the middle of 1941. At this conference I learned that Karl Brandt and Philipp Bouhler were the leading figures in the Euthanasia Program. The conference was called by Dr. Linden on behalf of the Department of the Interior, and prob-

*Defendant (in absentia) before International Military Tribunal. See Trial of the Major War Criminals, vols. I–XLII, Nuremberg, 1947.

lems of institutions and asylums were submitted. Dr. Linden directed the proceedings.

"To the best of my knowledge and belief, Philipp Bouhler as well as Professor Dr. Karl Brandt were the leading figures in this so-called Euthanasia Program from 1941 to the collapse of Germany.

"The connection between the Department of the Interior and Professor Karl Brandt, in the framework of the Euthanasia Program, was that Karl Brandt gave orders to Conti and Linden, which were passed on by these persons on behalf of the Department of the Interior. Brandt was the dominating figure without doubt." (*NO–818, Pros. Ex. 373.*)

The witness Wesse said in his affidavit that Brandt was in charge of the Euthanasia Program at least until March 1944. (*NO–1428, Pros. Ex. 432.*)

The witness Mennecke testified that he learned in the beginning of 1941 that the defendant Brandt was active in the Euthanasia Program. (*Tr. p. 1874.*) He further testified:

"When, in 1944, I was treated as a patient in the army hospital at St. Blasien, I found out through conversations with officers that Professor Brandt had an essential part in the collection of insane persons in the area of Lublin, Poland." (*Tr. p. 1903.*)

He further testified, in connection with this Lublin action, that it must have continued up to 1944 and that it was said that insane persons and Jews were collected in Lublin in large numbers. (*Tr. p. 1904.*)

The witness Schmidt testified that Professor Brandt had the medical direction of the program, and only in 1944 was he told that Brandt had left the program. (*Tr. p. 1825.*) He also knew that Brandt played the leading part in the task which had to be accomplished (Euthanasia Program), that he (Brandt) was to accomplish this task. (*Tr. p. 1847.*)

Both witnesses, Schmidt and Mennecke, also testified that the chart (*NO–253, Pros. Ex. 331*), which shows Brandt in the center of the program, is correct. (*Tr. pp. 1833, 1876.*)

The evidence shows further that Brandt gave orders in the Euthanasia Program as late as July 1943. In a letter from the Patients Transport Corporation, dated 20 July 1943, to the Mental Institution Hadamar—which was, as documents and testimony show, an extermination station—the following sentences are found:

"I order transfer of insane persons to your institution also, by order of Professor Brandt, the Commissioner General of the Fuehrer for Medical and Health Service. You will get, on 26 July 1943, 150 insane women from the Mental Institution Warstein if the Reichsbahn will furnish the necessary cars as requested." (*NO–892, Pros. Ex. 442.*)

Brandt was the person who had to be approached if one were to save a child from euthanasia. In a letter from the Reich Committee for Research on Hereditary and Constitutional Severe Diseases, dated 16 November 1943, to Dr. Schmidt's sanatorium, Eichberg (as the evidence shows, a killing station for deficient children), we find the sentence:

"On the basis of a letter directed to Professor Dr. Brandt concerning the above mentioned, I request an elaborated diagnosis about the mentioned Anna Gasse who is reported to be in your institution at present."

And further:

"If from a medical point of view such a release is warranted, one could take into consideration whether one should not perhaps comply with such a request in the interest of the good reputation of the institution." (*NO–890, Pros. Ex. 443.*)

That the defendant Karl Brandt was in a position to issue instructions and assign tasks to insane asylums in Germany is further corroborated by the affidavit of the defendant Rose, who said that in 1943 Brandt put an insane asylum in Thuringia at his disposal and made arrangements that this institution would not be converted into a general hospital; and further, that in 1944 Brandt made arrangements for the better feeding of inmates of this asylum in order to enable Rose to proceed with his malaria therapy. (*Tr. p. 1717.*) If this statement in itself has nothing to do with euthanasia, it shows the scope of influence and power Brandt still commanded over insane asylums in 1943 and 1944. (*NO–872, Pros. Ex. 408.*)

According to his own testimony, Brandt was in charge of euthanasia until 1942. (*Tr. p. 2433; Tr. p. 2532.*) There is no proof, other than his own statement, that he resigned his commission at that time. On the contrary, the proof has shown that he was active in this field until some time in 1944. In any event, the program was criminal in its inception. The murder of concentration camp inmates pursuant to euthanasia began as early as 1940. Non-German nationals were included in substantial numbers. Healthy Jews were exterminated without examination. Trained killers from euthanasia stations were sent to the East as early as 1941 to aid in the mass murder of Jews. Persons whose only crime was physical inability to work were subjected to euthanasia from the very beginning. Indeed, the elimination of "useless eaters" was the principal rationale of the whole program.

Brandt stated that an order existed which exempted non-German nationals, but he was unable to give any explanation as to how this order operated, who received it, and why, if such an order existed, questionnaires for foreign nationals were filled out at all. (*Tr. pp.*

2499–2503.) The evidence has shown that non-German nationals were never exempted and were killed in large numbers. There is nothing to be said in mitigation for Brandt.

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EXTRACTS FROM THE CLOSING BRIEF AGAINST DEFENDANT BRACK

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Moral and Humanitarian Justification

In the brief against Karl Brandt the prosecution has summarized the overwhelming proof that euthanasia, far from being "an act of grace", was a measure to eliminate "useless eaters" and other "undesirable" persons. Brack himself, when questioned by the Tribunal, was unable to explain why war veterans of the First World War (1914–18) were exempted from this "act of grace." (*Tr. pp. 7650, 7664.*) Contrariwise, he could not explain why this grace was extended to insane criminals, irrespective of the length of time they had spent in an insane asylum. (*NO–825, Pros. Ex. 358.*)

Brack personally reprimanded Mennecke, who was an expert in the Euthanasia Program, on the ground that his expert opinions were far too soft and did not recommend euthanasia as often as he desired. (*Tr. pp. 1881, 1907.*) The so-called "observation stations" where the patients, according to Brack's statement, were examined for several weeks by expert doctors were nothing but collecting points for the victims. (*Tr. pp. 1822, 1878, 1879.*)

Brack admitted that the work of Binding and Hoche is considered the standard work on euthanasia. (*Tr. p. 7633.*) This work leaves no doubt that the will to live, of even those who are most seriously ill, suffer most gravely, and are of least use, should be fully respected, and that any authority for the annihilation of life is excluded in cases where the will to live must be broken. (*NO–2893, Pros. Ex. 496.*) Brack himself admitted that euthanasia is inadmissible in cases where the patient has the will to live. (*Tr. p. 7701.*) The witness Schmidt testified that the victims, who obviously knew or suspected their fate, had to be *forced* to enter the busses which took them to the extermination stations. (*Tr. pp. 1856, 1861.*) This evidence is corroborated by documentary proof. (*D–906, Pros. Ex. 376.*) While many of those victims may have been insane, they certainly did not lack the will to live. Moreover, Brack himself admitted, when questioned by the Tribunal, that Bouhler ordered that the arrangements for the killing had to be made in such a way that the patients would not realize what was being done to them. (*Tr. p. 7660.*) The gas chambers where the victims were annihilated resembled shower rooms. (*Tr. p. 7659.*) The patients were deceived into thinking that they were to take a shower bath and, therefore, had to undress. (*Tr. pp.*

7644, 7660.) Such precautions would certainly not have been necessary if the victims had desired the "privilege of a mercy death."

*Action 14 f 13**

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If the testimony of Brack and Brandt as to the number of doctors who were active in the Euthanasia Program is correct, it is clear from the record that all doctors active in this program collaborated in Action 14 f 13. Brandt estimated the number of doctors who were charged with the execution of the Euthanasia Program as 10 to 15 (*Tr. p. 2478*), Brack, as 12 to 15. (*Tr. p. 7573.*) Mennecke testified that about 15 doctors from the Euthanasia Program were commissioned to carry out the "examinations" in the concentration camps. (*Tr. p. 1891.*)

Brack was unable to explain how it came about that concentration camps inmates selected in Action 14 f 13 were killed in euthanasia stations. (*Tr. p. 7541.*)

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Legality

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Even Brack's own documents reveal that he misinformed the legal authorities about the legal situation in respect to the Euthanasia Program. The ministerial director in the Reich Ministry of Justice, Karl Engert, states in his affidavit (which, according to the defense counsel of Brack, is "of great interest because it shows the opinion of the influential jurists on this question"): "Brack's statements reassured me because, according to them, it was to be definitely assumed that a Reich law would then be enacted in the customary form, i. e., by publication in the Reich Law Gazette. I saw no reason why any difficulties should arise." (*Brack 37*, *Brack Ex. 37.*) Needless to say, Brack did not mention that Hitler had refused to issue such a law until after the war.

That Brack was well aware of the fact that the Euthanasia Program was a criminal one is proved by his attempt to destroy evidence prior to the occupation of Germany by the Allies. The affidavit of Claussen proves that he sent the following teletype to the commandant of the concentration camp at Mauthausen (*NO–2429*, *Pros. Ex. 498*):

"To the Concentration Camp Mauthausen, SS Standartenfuehrer Ziereiss.

"Hartheim must be destroyed immediately. Execution must be reported by order of the Fuehrer.

[Signed] Oberfuehrer Brack"

*Code name for the killing of non-German nationals and Jews who were inmates of the concentration camps.

Brack admitted that Hartheim was a euthanasia station where the victims of the Euthanasia Program were killed. (*Tr. p. 7714.*)

General Extermination of the Jews

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That the defense of Brack is fabricated is proved by other evidence in the record. SS judge, Dr. Morgen, who investigated the criminal case of Wirth, testified before the International Military Tribunal that when Wirth took over the mass extermination of the Jews, he was already a specialist in the extermination of human beings. He had previously carried out the task of annihilating the insane. He had received this assignment from the Chancellery of the Fuehrer, Bouhler's office. A system which Wirth had devised in his activities in the Euthanasia Program made it possible to exterminate large numbers of people with the help of only a few assistants. The same system, with a few improvements, was employed for the extermination of the Jews. Wirth's assignment for the extermination of the Jews came from Bouhler's office, from the very office where Brack was active. Morgen investigated Wirth's mail and found out that the courier who brought this mail came from the Fuehrer's Chancellery, Tiergartenstrasse, the place where the office of the Euthanasia Program was located. Among the people connected with this extermination program, Morgen remembers Blankenburg, Brack's deputy. (*NO–2614, Pros. Ex. 504.*) Brack admitted that Wirth was active in the Euthanasia Program. (*Tr. p. 7733.*) It may well be that Morgen started his investigations in July 1943* but by the affidavit of Gorgass, it is proved that Wirth received his assignment from the "Foundation", one of the camouflaged societies of the Euthanasia Program, as early as the summer of 1941. (*NO–3010, Pros. Ex. 503.*)

This evidence is fully corroborated by the affidavit of Gerstein. Globocnik was in charge of the extermination camps near Lublin, and Wirth collaborated with him in the extermination of the Jews. The gas chambers were camouflaged as "bath and inhalation" rooms and called "Foundation" Heckenholt. Doctors' commissions toured the towns and villages of Poland and Czechoslovakia in order to select persons for extermination. (*1553–PS, Pros. Ex. 428.*) Brack when questioned by the Tribunal, admitted that the gas chambers of the euthanasia stations where the victims of the Euthanasia Program were killed were camouflaged as "shower rooms". (*Tr. p. 7659.*) "Foundation" was one of the code names under which the Euthanasia Program operated. (*NO–3010, Pros. Ex. 503.*) The similarity between the extermination arrangement in the euthanasia stations and that used by Globocnik and Wirth is not coincidental.

*Trial of the Major War Criminals, vol. XX, pp. 490–1, Nuremberg, 1948.

The proof has shown that Brack himself advanced plans for the mass extermination of the Jews. In the beginning of October 1941 Brack had a conference with Eichmann from the Reich Security Main Office of the SS and Wetzel of the Reich Ministry for the Occupied Territories on the "solution of the Jewish question". (*NO–997, Pros. Ex. 506.*) Brack declared himself ready to collaborate in the manufacture of the necessary gas chambers and gassing apparatus for the extermination of all Jews who were unfit to work. Since the manufacture of this apparatus was easier to accomplish in the East, Brack agreed to send some of his collaborators, and especially his chemist, Kallmeyer, there for this purpose. Brack proposed outright extermination of all Jews who were unable to work. Since Eichmann, whom Hitler had charged with the solution of the Jewish question, was in agreement with Brack's proposals, no objection was voiced against the extermination of those Jews who were unable to work with the "Brack remedy". (*NO–365, Pros. Ex. 507.*) Kallmeyer was the technical expert on operation of the gas chambers in the euthanasia station. (*Tr. p. 7743.*)

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c. Selections from the Argumentation of the Defense

EXTRACTS FROM THE CLOSING BRIEF FOR DEFENDANT KARL BRANDT

Euthanasia

Position taken in the indictment

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Position of the defense

The aim of euthanasia was to solve an old medical problem.

Statement of Karl Brandt according to which the subject of "useless eaters" was never mentioned in the presence of Karl Brandt, (*Tr. pp. 2397, 2434.*)

Statement of Schmidt according to which the ethical points of view were stressed during the conference of the experts in Berlin, 1941. (*Tr. p. 1852.*)

Statement of Mennecke according to which medical motives were given at the informative conference. (*Tr. p. 1906.*)

Statement of Brack regarding what was involved was the solution of the old medical problem. (*Tr. p. 7544.*)

The ethical aims of the euthanasia planned can also be seen from the drafts of a final bill of law.

Statement of Lammers in which the witness compiled a draft according to medical and ethical points of view. (*Tr. p. 2683.*)

Statement of Brack stating that Bouhler worked out a draft in

cooperation with Brack based on scientific contributions. The heading "Law relating to the granting of ultimate medical assistance to incurable persons" shows the characteristic features of the law. (*Tr. p. 7581.*)

The peculiar individual attitude of Karl Brandt is of an ethical nature.

Affidavit of Schwerin-Krosigk, according to which Pastor Bodelschwingh, chief of the mental institutions of Bethel, declared that Karl Brandt had stated his point of view as regards euthanasia in a respectful way, making every allowance for the contrary opinion of Bodelschwingh. (*Karl Brandt 26*, *Karl Brandt Ex. 83.*)

Affidavits of Pastor Woermann. The witness, successor of Pastor Bodelschwingh, said that Bodelschwingh had told him about the idealistic attitude of Karl Brandt and said that Karl Brandt had supported euthanasia for the fully extinct spirit. (*Karl Brandt 23*, *Karl Brandt Ex. 19.*)

Affidavit of Rueggeberg. The witness reported on a radio interview of the London radio commentator Robert Graham with Pastor Bodelschwingh in the summer of 1945. Bodelschwingh himself declared there that one should not consider Karl Brandt as a criminal but as an idealist. (*Karl Brandt 19*, *Karl Brandt Ex. 16.*)

Affidavit of Rach. According to the statement of this witness, Bodelschwingh visited Karl Brandt at his house in Berlin as late as the summer of 1943 and spent an afternoon there in a friendly discussion. (*Karl Brandt 6*, *Karl Brandt Ex. 7.*)

Suspension of euthanasia in August 1941.

Affidavit of Kirchert. According to this statement euthanasia was stopped in the summer of 1941 although at that time economic reasons had become rather more important than before. The statement of the prosecution admits with certain limitations that euthanasia had been stopped in August 1941. (*Karl Brandt 18*, *Karl Brandt Ex. 15; Tr. p. 1752.*)

Special responsibility and participation of Karl Brandt.

The authorization of 1 September 1939 was founded on a purely medical point of view, namely euthanasia for incurable persons "under *most* careful scrutiny of their state of illness." An economic or political motive as the basis is therewith rejected. The drafts for a law for further implementation of the euthanasia idea also show medical and ethical motives.

The report sheets and memorandum slips were sent to mental institutions *only*, which proves that euthanasia was practically restricted to insane persons. Had the elimination of "useless eaters" been the

aim, this restriction would have been meaningless for there were "useless eaters" in other places too (nursery homes for cripples, hospitals, etc.). Undesirable foreigners were rarely to be found in mental institutions at the start of the Euthanasia Program since aliens entered the area of the Reich only with the beginning of the allocation of foreign labor.

The suspension of euthanasia in August 1941 argues against the intention to eliminate "useless eaters", for only from that time on economic reasons of that kind acquired a certain importance.

The transfer of sick persons by order of the Reich Defense Commissioner did not point to a special war interest but was an administrative and local measure in order to evade difficulties as regards competence. The Reich Defense Commissioner was a new regional administrative office which made it possible to combine the various offices without regard to their competencies for the different tasks. It seems possible that it was only a camouflage. The blank draft contains contradictions, for according to that draft the director of a mental institution gives directives to the general public prosecutor and refers to a decree of the Reich Defense Commissioner. (*NO–841, Pros. Ex. 360.*)

The motive of elimination of "useless eaters" appears only in the subsequent statements of the ideological opponents as a propaganda measure of the resistance movement where a symptom is passed off as a motive. At the conferences, no economic reason was given for the euthanasia measures; but this was mentioned only as a secondary phenomenon.

The attitude of Karl Brandt himself was proved by the statements of Bodelschwingh as the authoritative leader in matters of medical and nursery treatment among convinced Christians. Bodelschwingh's attitude towards Karl Brandt would be inconceivable if he had enforced the liquidation of all undesirable sick persons. (*Karl Brandt 115, Karl Brandt Ex. 91.*)

The statement in the judgment of the International Military Tribunal is subject to revision on the grounds of the evidence material of this trial.

Legal Foundation of Medical Euthanasia

Position taken in the indictment

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Position of the defense

The authorization of 1 September 1939 was a sufficient legal basis. (*630–PS, Pros. Ex. 330.*) The form of the authorization was sufficient.

The sheet with the golden eagle chosen for that purpose shows the special importance of the authorization.

No recipient was mentioned to whom the authorization in the form of a letter may have been addressed. (*Tr. p. 2396.*)

Karl Brandt took part in working out the text by inserting the words "under the most careful scrutiny of their state of illness."

Statement of Lammers, expert in constitutional law. (*Tr. p. 2678–9.*) According to that document the form chosen was not usual, but such violation did occur and flaws were adjusted. Hitler did not care about the form.

Statement of Lammers, stating that Hitler as the Fuehrer was authorized to alter the form: "I thought him authorized to do such things." Apart from the form of the authorization which is on hand here, there existed still another version. (*Tr. p. 2686.*)

Statement of Pfannmueller. According to this document, the authorization contained the passage: "To the Reich Minister of the Interior." The document was of a different form from the authorization in question. (*Tr. p. 7362.*)

Affidavit of Kirchert. Grawitz told the witness that there existed an authorization with the additional signature of Goering as the Chairman of the Reich Defense Council. (*Karl Brandt 18, Karl Brandt Ex. 15.*)

Statement of Mennecke. At the conference in 1940 the law was read *word by word.* (*Tr. p. 1921.*)

File note of the Gauleitung of Franconia dated 1 April 1940, "The Fuehrer gave the order, the law is made." (*D–906, Pros. Ex. 376.*)

Publication of the authorization was not necessary for its coming into force.

Statement of Lammers says that there existed legal provisions which had not been published. (*Tr. p. 2689.*)

Affidavit of the Regional Bishop Wurm. Conti told the witness that there existed a law that had not been published for political reasons. (*Karl Brandt 25, Karl Brandt Ex. 82.*)

The *obligation of secrecy* does not prove the illegality of euthanasia.

Statement of Brack. The offices were informed. The decree of 1 September 1939 was transmitted to the Reich Minister of Justice on 27 August 1940, according to his special wish, but he had been informed of it earlier. (*Tr. p. 7689.*)

Statement of Pfannmueller. The witness states that the obligation of secrecy was usual. "I was bound to keep Reich matters secret. I was bound with regard to the Reich Penal Code." (*Tr. pp. 7343, 7397.*)

Statement of Schmidt. The witness says that an ordinary obligation of secrecy form was signed without a special threat of punishment.

Camouflage.

Files of the Gauleitung of Franconia concerning correspondence with Marie Kehr. According to this, instructions were given after they were convinced of her good sense. (*D–906, Pros. Ex. 376.*)

Book of Meltzer: "The Problem of Abbreviation of Worthless Lives." According to a statistical summary, on the whole, relatives of the mentally diseased do not wish to be informed. (*Karl Brandt 85, Karl Brandt Ex. 94.*)

Recognition of the Decree. The point of view of German literature and the administration of justice does not consider the present state of constitutional law. After taking cognizance of the decree, all authorities acknowledged it as the legal basis.

Testimony of Lammers. "The Reich Minister of Justice Guertner considered this regulation legal and stopped the pending actions." (*Tr. p. 2686.*)

Testimony of Brack. Guertner, the Reich Minister of Justice, declared that the decree was not to be doubted. (*Tr. p. 7590.*)

Extract from the periodical "German Law" [Deutsche Justiz] 1941. Transfer of the supreme officials of the Justice Department in Berlin on 23 and 24 April 1941. According to this, photostatic copies of the decree of 1 September 1939 were delivered to all participators and its legality acknowledged by them. (*Brack 36, Brack Ex. 36.*)

Affidavit of Suchomel. This witness erroneously places the date of the conference in the 2d half of the year 1942. That means, some time after the stoppage. (*NO–2253, Pros. Ex. 557.*)

Letter of 15 July 1940 of the General Prosecutor of Stuttgart to the Reich Ministry of Justice containing a report concerning illegal euthanasia. The following remark is made on the letter by the department chief of the Reich Ministry of Justice: "There is nothing to be ordered." (*NO–156, Karl Brandt Ex. 4.*)

Schlaich to the Reich Ministry of Justice on 6 September 1940—Nothing has been attempted. (*NO–520, Pros. Ex. 374.*)

Testimony of Schmidt. The witness states that during a conference of jurists in Berlin 1941 the action was declared legal. This refers to the conference mentioned above, as it was mentioned in Document Brack 36, Brack Exhibit 36. (*Tr. p. 1852.*)

Preliminary Conference. Karl Brandt did not take part in the preliminary conference.

Testimony of Karl Brandt. According to this, Karl Brandt was invited unexpectedly, because he was available as an attendant-physician, when the conference with Bouhler took place. He was uninformed before this. Preliminary conferences concern-

ing euthanasia took place between Hitler and Bouhler, Hitler and Conti.

Testimony of Lammers. According to this, during a conference in the autumn of 1939 in the presence of Lammers, a commission was given to Conti to start euthanasia. (*Tr. p. 2668.*)

Testimony of Lammers. According to this, Bouhler declared that Hitler wanted to give him the commission to carry out euthanasia. (*Tr. p. 2669.*)

Testimony of Brack. According to this a rivalry existed between Bouhler and Frick, Conti and Bormann, concerning the commission. Bouhler went to Hitler and said he would consent to accept the commission. Bouhler received the commission. (*Tr. p. 7556.*)

Particular responsibility and participation of Karl Brandt. According to the existing conditions of constitutional law, the decree of 1 September 1939 was to be looked upon as a legal order, and Karl Brandt, in his capacity as a physician, could rely on the organizations of the state and the opinions of the jurists.

The belated objection to the decree today is not made because of its external form, but in reality because of its contents. The circumstance that no *publication* of the decree took place was explained with politically intelligible reasons, corresponding to similar regulations issued for other measures.

The *obligation of secrecy* corresponds with the general regulations of the administration; a warning with reference to the regulations of penal law was usual. The so-called "death threat" is an exaggeration without any sense; according to practice, a reference to penal regulations concerning the revelation of secret matters had to be made where capital punishment was provided as the severest punishment in the Reich Penal Code. The opposition of all the persons interested in the procedure was directed against the camouflage of measures, with its inevitable consequences, the establishment of sham offices, the drawing-up of false death certificates, false information for the relations.

Karl Brandt accepted these regulations because they were the necessary consequence of the consideration not to disturb the part of the population involved. Neither the patient nor his relatives were to be alarmed, and the relatives had to be released from their feeling of responsibility. This motive is expressed in the correspondence concerning Marie Kehr, where the proper information was given and served as reassurance and warranted an expectation of understanding.

Karl Brandt did not partake in the organization of the Euthanasia Program. His connection with it, as an expert adviser for Hitler, is due only to the accident that he was in the headquarters of the Fuehrer. He received only a limited commission compared with Reichsleiter

Bouhler, who, according to his own offer, was charged with the execution of this task.

Organization

Position taken in the indictment

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Position of the defense

Karl Brandt was not the leading person, Bouhler was the head of the organization. In the decree of 1 September 1939 Karl Brandt is listed in second place, after Bouhler who had the rank of a Reich Minister.

The indictment denotes Bouhler as the chief of Karl Brandt. (*Tr. p. 1531.*)

Bouhler's letter to the Reich Minister of Justice of 5 September 1940. "On the authority of the Fuehrer and as the *only* responsible person for all measures to be carried into effect, *I* have given the orders which seemed necessary to *me* to *my* collaborators." (*NO–156, Karl Brandt Ex. 4a and 4b.*)

Affidavit of Lammers (supplement). The witness certifies as Bouhler's the signature on the documents mentioned above. (*Karl Brandt 92, Karl Brandt Ex. 86.*)

Letter from Bormann sent to the Gauleitung of Franconia. Here, too, Bouhler is quoted as the Chief of the Committee of Physicians. (*D–906, Pros. Ex. 376.*)

Testimony of Lammers, according to which Karl Brandt never appeared before Lammers; in the Reich Ministry of Justice also; Bouhler was the only person who made an appearance. (*Tr. p. 2672–3.*)

Affidavit of Kirchert. The witness had a conference with Grawitz, who wanted to interest him in the use of euthanasia. Grawitz declared to the witness that *Bouhler* was charged with euthanasia. To him Karl Brandt had never been mentioned. (*Karl Brandt 18, Karl Brandt Ex. 15.*)

Affidavit of Prince of Hesse (supplement). The witness declares that he protested to Hitler and Bouhler because of the euthanasia project. Karl Brandt had not been called in at that time, though he could have been reached at once in the Fuehrer Headquarters. The witness is convinced that Karl Brandt was *not* connected with the matter *in a decisive way.* (*Karl Brandt 115, Karl Brandt Ex. 91.*)

Statement of Mennecke. The witness has never seen Karl Brandt, nor did he receive any order from him; he only knows the position of Karl Brandt within the framework of the euthanasia project from hearsay. (*Tr. pp. 1903–5.*)

Statement of Schmidt. The witness did not know Karl Brandt and did not see any order signed by him. He only knows by hearsay from Hegener that Karl Brandt "was supposed to be the medical chief" in 1941. In 1944 the witness learned that Karl Brandt was no longer involved, but could not state if he had still any influence in 1942 and 1943. (*Tr. pp. 1857–8.*)

Karl Brandt had no administrative organization of his own.

General items

New plan of organization by Brack. (*Karl Brandt 8, Karl Brandt Ex. 3; Karl Brandt 15, Karl Brandt Ex. 3.*) Testimony of Karl Brandt. (*Tr. p. 2403.*)

Affidavit of Brack. (*Tr. p. 7550.*)

Judgment of the International Military Tribunal* according to which Frick, as Reich Minister of the Interior, is made responsible for the carrying out of the euthanasia project.

Direct correspondence of the Bouhler office with the competent authorities prove that Karl Brandt was not involved: Letter from Brack to Schlegelberger. (*NO–842, Pros. Ex. 405.*) Letter from Brack to Freisler. (*NO–843, Pros. Ex. 406.*) Letter from Himmler to Brack. (*NO–018, Pros. Ex. 404.*)

Complaints of the national and ecclesiastical authorities and of civilians did *not* reach Karl Brandt.

Complaint by Schlaich, Chief of the Mental Institution of Stetten. This director who worked in this specialized field does not know anything of Karl Brandt. (*NO–520, Pros. Ex. 374.*)

Affidavit of Sprauer of 23 April 1946. The witness does not mention Karl Brandt in this affidavit. (*3896–PS, Pros. Ex. 372.*) (Only in a later affidavit of 19 November 1946, does he add a pertinent, general statement.)

Actual complaints are transferred by the ministries to the Bouhler office, not to Karl Brandt. (*616–PS, Pros, Ex. 403.*)

Specific examples.

Statement of Pfannmueller, according to which the invitation for the experts' conference was made by Bouhler. (*Tr. p. 7316.*)

Statement of Pfannmueller. Bouhler took the chair in the second conference in Berlin; Karl Brandt was not present. (*Tr. p. 7359.*)

Statement of Brack, according to which Karl Brandt made no speeches on problems of euthanasia, and he was not expected to do so. (*Tr. p. 7588.*) This is confirmed by the testimony of Blome.

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*Trial of the Major War Criminals, vol. I, p. 247, Nuremberg, 1947.

Statement of Mennecke, according to which Brack was chairman of the conference in February 1940. (*Tr. p. 1869.*)

Statement of Schmidt. Karl Brandt also was not present at the conference in February 1941, but there were present representatives of the Reich Ministry of the Interior and of the Reich Ministry of Justice. (*Tr. p. 1819.*)

Statement of Pfannmueller, according to which the experts were appointed by the Reich Ministry of the Interior. (*Tr. p. 7377.*)

Statement of Brack, according to which the physicians were chosen by Linden and Grawitz. (*Tr. pp. 7703, 7705.*)

Affidavit of Kneissler, according to which the persons in charge of euthanasia were instructed by Blankenburg of the Bouhler office. *NO–470, Pros. Ex. 332.*) Karl Brandt was not mentioned.

Affidavit of Sprauer, according to which the mental institutions were under the control of the Reich Ministry of the Interior. (*3896–PS, Pros. Ex. 372.*) Answering a complaint of Sprauer, Conti stated: "That is the business of the Reich Ministry of the Interior."

Affidavit of Jordans. (*3882–PS, Pros. Ex. 371.*) Also confirms that the mental institutions were under the control of the Reich Ministry of the Interior.

The order for evacuation from Warstein to Hadamar was not given at the suggestion of the Reich Defense Commissioner or for "systematic registration", but with regard to the air raid danger. (*NO–892, Pros. Ex. 442.*) Karl Brandt was a member of the committee for air raid damage, and it was his special task within this committee to allot the space available in hospitals fairly. The order was given in 1942, after the great air raids in the area of Cologne and the industrial areas. It refers to an institution in the interior of Westphalia which was considered as a reception district at that time; the euthanasia facilities at Hadamar were removed and the institution was returned to the former owner. (See indictment in the Hadamar Trial.*)

Affidavit of Steinbrecher. (*Karl Brandt 84, Karl Brandt Ex. 87.*) The activity of Karl Brandt on occasion of the removal of the mental institution from Dueren shows that Karl Brandt was not engaged as chief of the mental institutions, but in advisory capacity beside the competent authority, because he had influence and was charged with a special task in the field of air raid protection, in view of his general allocation tasks. Here Karl Brandt was able to help directly on account of his special tasks connected with the Committee for Air Raid Damage.

*United States *vs.* Alfons Klein, et al. See Law Reports of Trials of War Criminals, vol. I, pp. 46–54, London, 1947.

Statement of Rose. (*Tr. p. 6362.*) Opinion of the witness as to affidavit, NO–872, Prosecution Exhibit 408. From this it is seen that Karl Brandt here did not have charge of the patients, but was to endeavor with the other authorities to have the institution placed at his disposal.

Real Position of Karl Brandt. The position of Karl Brandt within the framework of the Euthanasia Program was limited.

Statement of Karl Brandt, according to which it was his task to inform Hitler and to license physicians of the euthanasia institutions according to the decree on the basis of personal responsibility of the physicians. (*Tr. p. 2408.*)

Statement of Brack. The witness says that Karl Brandt had nothing to do with the carrying out of the Euthanasia Program, "for he was the delegate of Hitler". (*Tr. p. 7571.*) He had no office at Tiergartenstrasse 4, and to the knowledge of Brack, he was never in the office "T 4".

Affidavit of Reinhardt. (*Karl Brandt 5, Karl Brandt Ex. 6.*) The witness was occupied as an auditor in the office of Karl Brandt, and he states that in this capacity he did not find in the office of Karl Brandt any accounts or items with entries referring to euthanasia.

Affidavit of Schaub, according to which Karl Brandt was bound to the Fuehrer Headquarters and to Hitler and thus was not able to make any inspections. (*Karl Brandt 80, Karl Brandt Ex. 98.*)

Affidavit of Rach. (*Karl Brandt 6, Karl Brandt Ex. 7.*) The witness confirms the connection of Karl Brandt with the Fuehrer Headquarters and with the clinic in Berlin.

Execution

Position taken in the indictment

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Position of the defense

Time. The practice (of euthanasia) by virtue of the authorization started at the beginning of 1940 and lasted until August 1941, when it was stopped. Statement of Karl Brandt. (*Tr. p. 2431.*) Statement of Brack. (*Tr. p. 7543.*) According to both statements, the practice was suspended because of an oral order by Hitler to Karl Brandt. (Oral order of suspension was sufficient, since the legal ordinance itself was not revoked, because in principle euthanasia was supposed to be continued after the war. Continuation of the Reich Committee for Children.)

Suspension of euthanasia is confirmed through the following depositions: Statement by Blome. (*Tr. p. 4653.*) Statement by Pfannmueller. (*Tr. p. 7348.*) Statement by Dr. Schmidt. (*Tr. p. 1823.*)

Statement by Dr. Mennecke. (*Tr. p. 1879.*) According to these testimonies, euthanasia was discontinued in Hadamar in August 1941 and the gas chambers removed. (See record of Hadamar Trial, especially indictment*.)

The witnesses say further that euthanasia was no longer practiced at Eichberg either.

Affidavit of Irene Asam-Bruckmueller. The witness confirms suspension in Ansbach; she places this in the year 1942. (*3865–PS, Pros. Ex. 365.*)

Affidavit of Jordans. According to this, the witness learned in March 1942 that there had been a euthanasia program in other institutions, too, which now had been discontinued. (*3882–PS, Pros. Ex. 371.*)

Kirchert affidavit. According to this, suspension occurred in the summer of 1941. (*Karl Brandt 18, Karl Brandt Ex. 15.*)

Mennecke correspondence. The witness writes on 15 June 1942 of "re-commencement" of euthanasia. (*NO–907, Pros. Ex. 412.*)

Number of dead.

Statement by Karl Brandt on the number of insane falling under the authorization of 1 September 1939. (*Tr. p. 2465.*) Brack estimates them at 50,000 to 60,000. (*Tr. p. 7610.*)

Pfannmueller statement. The number of report forms which were made out does not equal the number of persons marked for euthanasia. This number contains only a fairly small percentage of persons, who were judged eligible for euthanasia. (*Tr. p. 7384.*)

Registration by report forms.

In general.

Statement by Karl Brandt. (*Tr. p. 2401.*) According to this, Karl Brandt did not assist in drawing up the report forms. They were drafted by the Reich Ministry of the Interior (Linden).

Pfannmueller statement. (*Tr. p. 7322.*) According to this, the directives were worked out as a result of the conference of experts at which Karl Brandt was not present.

In detail.

Pfannmueller statement. (*Tr. p. 7324.*) According to this, no persons incapable of work were supposed to be registered, but only the insane, with whom the inability to work was a special characteristic of their diseased state.

Wesse Affidavit (in lieu of cross-examination). (*NO–129, Pros. Ex. 105.*)

*Ibid.

Statement of Karl Brandt. (*Tr. p. 2465.*) According to Karl Brandt, the registration of Jews, foreigners, and war wounded was presumably carried out for statistical reasons.

Statement of Brack. (*Tr. pp. 7596–8.*) According to Brack the opinion of Karl Brandt about the reasons for the inclusion of the above-mentioned question is false and is based on "lack of professional knowledge" by Karl Brandt. Brack says that the questions were included only for the purpose of concealing the practice of euthanasia in the sanatoriums and nursing homes, from their personnel and their patients, and to veil the true purpose of the questionnaire. (For the same reason the purpose of the transfer was given out as "planned economic registration.")

Rosenau affidavit about camouflaging purpose of the report forms. (*Karl Brandt 130, Karl Brandt Ex. 106.*) Letter concerning the registration of workhouses. (*NO–781, Pros. Ex. 379.*) Not the old and disabled are registered, but only those cases of insanity that can no longer be treated.

Brack statement. (*Tr. p. 7599.*) Foreigners were sorted out in T 4.

Brack statement. (*Tr. p. 7593.*) According to this, foreigners were exempt from euthanasia. They were screened in the central office T 4. If single sheets for appraisal possibly went further, then this was because of incorrect transmission. Wounded veterans of World War I, just like Jews, were screened at the central office T 4. Report forms were made out for Jews, but they were not registered for the euthanasia procedure.

Classification procedure. The accomplishment of the classification procedure was guaranteed by the choice of the appraisers.

Statement by Pfannmueller. (*Tr. p. 7377.*) According to this, professional persons of proven ability were designated by the Reich Minister of the Interior.

Statement by Mennecke. (*Tr. p. 1294.*) According to this, university professors lecturing on psychiatry at colleges were appointed as appraisers. The appraisal was preceded by an examination of the patient. After the appraisal a re-examination was made in observation institutions and in the euthanasia institutions.

According to the scheduled procedure special commissions were appointed to examine the insane in nursing homes.

Affidavit of Irene Asam-Bruckmueller. Then came a commission which studied the case histories; among them were two physicians; the commission was in the institution for three days; after three months the transfer was effected. (*3865–PS, Pros. Ex. 365.*)

Ganzer affidavit. In the autumn of 1940 there was a commission of 40 persons; all case histories were asked for and a conference with the local staff physicians followed. An inspection of the patients was held. (*3867–PS, Pros. Ex. 369.*)

Sellmer report of 6 December 1940, Gauleiter's office, Franconia. According to this a commission came and examined the files and inspected the patients. (*D–906, Pros. Ex. 376.*)

Decision of the commission was based on the documents of the institution. (*NO–660, Pros. Ex. 377.*)

Pfannmueller statement. He recalls that a commission came in 1940. (*Tr. p. 7325.*)

Further re-examination took place in the observation and euthanasia institutions. The physicians were authorized and obliged to judge the patients on their own responsibility. On an average 4 percent to 6 percent were rejected.

Kneissler affidavit. Witness says that individual persons were rejected. (*NO–470, Pros. Ex. 332.*)

It appears from the reports that individual patients were sent back. (*D–906, Pros. Ex. 376.*)

Transfer of patients. Order of transfer.

Statement by Karl Brandt. "Operation Brandt" has nothing to do with the transfer. Through inquiries at sanatoriums and nursing homes, special Karl Brandt project concerning euthanasia order. According to this inquiry the hospitals of the special Brandt project accepted patients from areas endangered by air raids as evacuation hospitals. The transfer which became necessary had no connection with euthanasia. (*Karl Brandt 86, Karl Brandt Ex. 88.*)

Schnelle affidavit. According to this "Operation Brandt" meant the removal of patients and chronic sufferers to medicinal baths. (*Karl Brandt 21, Karl Brandt Ex. 17.*)

Miesen affidavit. According to this Karl Brandt charged them with the manufacture of ambulances which were then lacking. (From this it appears that up to that time other means of transportation had to be used, among others the Red Cross, etc., and also the General Sick Transport Company, which had likewise been used for transport purposes in the battle zones of the East.) Compare also the widely popular expression "Operation Brandt" in purely economic fields. (*Karl Brandt 28.**)

Schieber affidavit. (*Karl Brandt 22, Karl Brandt Ex. 18.*)

Grabe affidavit. (*Karl Brandt 86, Karl Brandt Ex. 88.*)

Kehrl affidavit. (*Karl Brandt 90, Karl Brandt Ex. 89.*)

Order of transfer through other agencies. Collective transport of Jews takes place under the reference of "Initial Decree of the State

*Not introduced in evidence.

[Bavarian] Ministry [of Interior] in Munich." (*NO–1141, Pros. Ex. 348.*)

Collective transport of Eastern workers ordered by the Oberpraesident through Bernotat. (*NO–891, Pros. Ex. 414.*)

Transfer through Munich [Bavarian] State Ministry [of Interior]. (*NO–1132, Pros. Ex. 341.*)

Transfer through the Province Governor of Military District III. (*NO–1133, Pros. Ex. 335.*)

Transfer through Military District III. (*NO–826, Pros. Ex. 356.*)

Transfer through Munich Ministry. (*D–906, Pros. Ex. 376.*)

Motives for the transfer. The transfer from institutions was effected for various reasons as a result of wartime conditions, such as evacuation of districts endangered by air raids, evacuation on account of proximity to the front and evacuation under consideration of inner displacements.

Ganzer affidavit. (*3827–PS, Pros. Ex. 369.*) According to this, the evacuations became frequent on account of wartime conditions and it was not easily apparent to the outsider why they were effected. The evacuation from Warstein to Hadamar, where reference is made to an order by Karl Brandt, could not have taken place on account of euthanasia, as Hadamar at this time had discontinued euthanasia. The change was made for reasons of air raid precaution.

Carrying out of the evacuation.

Statement of Karl Brandt. The evacuation was carried out by the Cooperative Ambulance Company through Office T 4, which was *not* subordinate to Karl Brandt. The Cooperative Ambulance Company was not employed for euthanasia transports alone. Whenever it was used, the account was rendered through the clearing office which settled the matter centrally.

Affidavit by Schieber on procurement of lacking ambulance space through the defendant Karl Brandt. (*Karl Brandt 22, Karl Brandt Ex. 18.*)

Affidavit by Miesen. (*Karl Brandt 28.**)

Statement of Mennecke on the assignment of the Cooperative Ambulance Company, 1941–42, in the East.

Deportation of Jews. Here a separation of the Jews according to nationality is carried out. Poles and Jews from Bohemia and Moravia shall not be transferred because they do not belong to the area of the transport. This shows that the aim of the deportation was not euthanasia, because separation according to

*Not introduced in evidence.

nationality would have been senseless. (*NO–1310, Pros. Ex. 337.*)

Affidavit by Schnidtmann. He expresses his opinion on the transfer of workers from the East on 18 September 1944; they are to be returned to their home institutions. This would have been superfluous in the case of intended euthanasia. (*NO–720, Pros. Ex. 366.*)

Affidavit by Rosenau. (*Karl Brandt 130, Karl Brandt Ex. 106.*)

Reasons for euthanasia. Euthanasia was brought about on the basis of an authorization given to the directors of the euthanasia institutions on 1 September 1939. This authorization was no order to carry out euthanasia but merely gave permission to arrange for euthanasia after examination based on a critical judgment of the condition of the illness. Consequently, doctors acted on their own responsibility.

The means for the execution of euthanasia.

Statement of Brack. According to this statement, carbon monoxide (CO) was used as a means. This is scientifically proved to be the least painful manner of death. The use of other methods proves that such an execution of euthanasia does not conform with the intended procedure, but is carried out on personal initiative. (*Tr. p. 7743.*)

Statement of Rose. (*Tr. p. 6363.*) Opinion on the reduction of food in medical institutions. (*NO–872, Pros. Ex. 403.*) Rose declares that this did not result in any particular reduction or neglect of the patients.

Experimental killing of insane persons.

The handing-over of patients from the institution of Eglfing-Haar is under consideration. (*No* euthanasia). (*1696–PS, Pros. Ex. 357.*)

Issue of false death certificates and notices.

Meltzer opinion. (*Karl Brandt 85, Karl Brandt Ex. 94.*) This document contains an inquiry sent to 200 relatives regarding their attitude towards euthanasia. Most of the relatives agree to it; it is characteristic that many disagree but declare that they do not wish to be asked and that the matter had best be kept secret and covered up (death should come unexpectedly not influenced by the wishes and interests of others and should not burden the relatives). Professor Meltzer, an opponent of euthanasia, arranged for the examination as the director of an insane asylum in order to obtain an argument against the main advocates of euthanasia in Germany, Binding and Hoche, and he declared that he was surprised at the result shown by the questionnaire.

Position taken in the indictment

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Position of the defense

In addition to the prescribed euthanasia based on authorization a so-called "wild euthanasia" took place, upon which the defendant Karl Brandt had no influence, and of which he had no knowledge.

Euthanasia on Polish Nationals. The authorization by Karl Brandt was limited to the occupied territories, which were subordinate to special administration, like the administration for the Government of Poland and the Protectorate as well as the Communication Zone. Karl Brandt therefore cannot be held responsible for the events which took place in the insane asylums in Poland. The removal of Eglfing-Haar to the occupied territories was carried out by the Cooperative Ambulance Company, but the fact of the transport shows obviously that death was not intended, as such a deportation would have been senseless. The seizure of Poles in the Polish district Zichenau by the Reich Security Main Office proves that quite another organization is at work than the organization for euthanasia in Germany, which was appointed by the Ministry of the Interior as supervisory authority.

Euthanasia in the Communication Zone.

Affidavit by Halder. (*Karl Brandt 116*, *Karl Brandt Ex. 92.*) Rumors that inmates of the insane asylum of Novgorod and others had been killed reached Halder. He knows that Karl Brandt was not mentioned in this connection as he held no authority in this field and that his appearance would be particularly noticeable.

Extermination in Auschwitz.

Letter from Brack to Himmler. (*NO–205*, *Pros. Ex. 163.*) The letter shows that the defendant Karl Brandt had nothing to do with the deportation of persons to Auschwitz. Brack designates the "men" as his "personnel" and on his own initiative offers further personnel in his direct correspondence with Himmler.

Statement of Brack. (*Tr. p. 7530.*) He points out that he had not accused Brandt himself of having any knowledge of or part in this, but merely that the possibility was presented to him during the interrogation by the prosecution. He had attempted to maintain his opinion through changes in the text of the affidavit composed for him. The text presented to him definitely mentioned Brandt as a confidant. It was stated there:

"It *was impossible* for these people to participate without the knowledge of Karl Brandt" further "that this order *could* have been issued by *Karl Brandt only.*" Brack has changed the text in the best possible way and has rearranged the sen-

tence as follows: "It *would have been* impossible for these people to participate." To the phrase "only by order of Karl Brandt" was added "possibly Bouhler."

Statement of Hielscher. (*Tr. p. 5982 ff.*) On cross-examination, the witness testified to the trustworthiness of the witness Gerstein, who since submitting the affidavit can no longer be traced and is presumed to be hiding.

Statement of Mennecke. (*Tr. p. 1912.*) The witness has not learned any more in regard to the rumors of euthanasia in Lublin and the participation of Karl Brandt in these matters in spite of his particular interest.

The Workers from the East.

Statement of Schnidtmann. (*NO–720, Pros. Ex. 366.*) Subsequently the transfer of the insane Eastern workers to a home institution took place. No euthanasia was therefore carried out; a transfer for this purpose would have been senseless.

Euthanasia after Cessation in 1941

Position taken in the indictment

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Position of the defense

With the cessation of euthanasia in August 1941, a new procedure appeared in which Karl Brandt no longer participated. Karl Brandt personally was fully occupied with special commissions in other fields (building of hospitals; since 1942 Commissioner General; since 1944 Reich Commissioner for Health and Medical Care). The cessation was ordered during August 1941. Subsequently euthanasia was discontinued.

Statement of Schmidt. (*Tr. p. 1879.*) Hadamar in August 1941. (Compare also the documents of the Hadamar Trial,* particularly indictment.)

The same applies to Eichberg in August 1941. (*Tr. p. 1879.*)

Affidavit by Kirchert. According to this there was general cessation in the summer of 1941. (*Karl Brandt 18, Karl Brandt Ex. 15.*)

Affidavit by Asam-Bruckmueller. (*3865–PS, Pros. Ex. 365.*) According to this euthanasia was also discontinued in Ansbach.

Affidavit by Jordans. (*3882–PS, Pros. Ex. 371.*) Hereby euthanasia was also discontinued in other institutions in 1942.

(The statements regarding date of cessation may be erroneous inasmuch as they were made long after the end of 1941. It is also possible

*United States *vs.* Alfons Klein, et al. See Law Reports of Trials of War Criminals, vol. I, pp. 46–54, London, 1947.

that in spite of the order to cease, some places still carried on upon the instruction of the local authorities.)

A new purpose for euthanasia is presented, which begins after the cessation. The motive is no longer medical and also has no more connection with the authorization.

Letter from Liebehenschel to the concentration camp of Gross-Rosen of 12 December 1941 on the discharge of prisoners. (*1151–PS, Pros. Ex. 411.*)

Correspondence of Mennecke. (*NO–907, Pros. Ex. 412.*) Therein a report is made about the cooperation of a new group, concerned with extermination. Under the date of 15 June 1942 Mennecke speaks about the "re-commencement" of euthanasia.

Statement of Brack. The witness reports of Bouhler's worry that before requesting the euthanasia commission on 1 September 1939, Bormann and other powers might wish to use the opportunity and he feared they might abuse it (wild euthanasia).

Legal foundations. Karl Brandt is not acquainted with the legal foundation for such proceedings after expiration of the authorization of 1 September 1939. After the cessation of euthanasia in August 1941, the powers held on the basis of the authorization of 1 September 1939 could no longer be exercised.

Statement of Karl Brandt. (*Tr. p. 2421.*) According to this, Karl Brandt, in 1944 learned of two cases in Saxony and of one in Pomerania where euthanasia was carried out. He forwarded this report to Hitler, Bormann, and Bouhler because he felt that within Bormann's sphere extremists were at work.

Organization. The old organization was abandoned or considerably reduced. (Compare the indictment of the Hadamar Case* regarding the liquidation office.)

The physicians were dismissed in August 1941 from the Office, Tiergartenstrasse 4.

Letter from Brack to Himmler of 23 June 1942. (*NO–205, Pros. Ex. 163.*) Here he refers to the former transfer of personnel and once more offers people from the remaining personnel.

It seems that the organization was now under the influence of Himmler. Karl Brandt was eliminated by the cessation in 1941.

Affidavit of Beringer. (*NO–808, Pros. Ex. 425.*) The witness says, "it was an open secret in the Gau that Mennecke was charged by *Himmler* to search the mental institutions of Germany for insane persons."

Activity of the former organization. Registration sheet.

Letter of the Reich Ministry of the Interior of 1 August 1940. (*3871–PS, Pros. Ex. 359.*) According to this all sick persons are

*Ibid.

now to be reported. The letter is addressed to the private clinic of Hertz at Bonn.

Testimony of Mennecke. (*Tr. p. 1902.*) According to this, the program was not resumed again in its original form.

Some of the experts had retired.

The killing no longer took place by carbon monoxide but by other means and by other methods.

In part the dead were not burned anymore but buried (as at Hadamar).

Elimination in the Concentration Camps

Position taken in the indictment

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Position of the defense

Motive is not reconcilable with medical authorization; this does not allow euthanasia for political or economic reasons.

Testimony of Mennecke. (*Tr. p. 1913.*) The witness explains that the execution was a complete breach of the directive at the start of euthanasia. "At least it had nothing to do with the euthanasia of lunatics."

Testimony of Karl Brandt.

Time.

Testimony of Mennecke. (*Tr. p. 1933.*) According to this Brack spoke of undertaking an examination in the KL [concentration camp] Oranienburg for the first time in the summer of 1940.

Testimony of Roemhild. (*Tr. p. 1659.*) The witness says that a second action 14 f 13 started in 1943 (therefore an independent action after the suspension of 1941). From that the independent character of the "first action 14 f 13" must be concluded, and it is to be assumed that it was ordered by the Reich Criminal Police Office, Berlin, as was the second action 14 f 13.

According to the testimony of Mennecke (*Tr. p. 1914*), Action 14 f 13 did not start with the first visit in 1940, but at first it was only an expert opinion according to medical points of view. In 1940 prisoners were examined by him in the concentration camp Buchenwald and registration forms filled out. At that time the examination extended to phychoses and psychopathy.

Affidavit of Muthig. According to this a transport went from Dachau to Mauthausen in December 1941 after examination by Heyde. (*NO-2799, Pros. Ex. 497.*)

Order. There were two parallel orders:

The order of the office of Bouhler in accordance with the Euthanasia Program, according to which from 1940 on the lunatics in the concentration camps were examined according to the directions.

Testimony of Mennecke. (*Tr. p. 1935.*) According to this, the order to visit the concentration camps was issued in the summer of 1940.

The order of Himmler to submit to the special treatment of action 14 f 13, or to kill undesirable prisoners, regardless of these examinations.

Letter of 10 December 1941 regarding the special action 14 f 13. (*1151–PS, Pros. Ex. 411.*)

Affidavit of Hoven. Order by Himmler was at hand for the execution of these actions. (*NO–429, Pros. Ex. 281.*) Further testimony of Hoven.

Report of Dr. Morgen in the proceedings against Hoven: "The right to decide about the life or death of prisoners in the concentration camps is assigned to the Reich Leader SS *Himmler.*" (*NO–2366, Pros. Ex. 526.*)

Organization. Two organizations working side by side have to be distinguished: (1) Organization for the selection of real lunatics according to the authorization of 1 December 1939. Here the organization of Bouhler is active up to summer 1941 within the framework of the former directives. (2) Organization for extermination contrary to the former directives, exclusively by Himmler and the Reich Security Main Office.

Testimony of Roemhild, about Action 14 f 13. (*Tr. p. 1641.*)

Testimony of Roemhild. (*Tr. p. 1644.*) According to this, Dr. Lolling participated, and was corresponding about it with Himmler.

Testimony of Roemhild. (*Tr. p. 1659.*) According to this, the second Action 14 f 13 started on the orders of the Reich Criminal Police Office, Berlin.

It was the independent work of Lolling in the concentration camp Oranienburg. (*1151–PS, Pros. Ex. 411.*)

Letter from concentration camp Gross-Rosen to the institution Bernburg. (*NO–1873, Pros. Ex. 556.*)

Report on special treatment to Main Economic and Administrative Office. (*1234–PS, Pros. Ex. 555.*)

Execution. Nothing was done before the suspension in August 1941.

Testimony of Mennecke. (*Tr. p. 1933.*) According to this, the first visit in 1940 was not the start. Until autumn 1941 there was only a general examination of the insane persons.

Testimony of Mennecke. (*Tr. p. 1940.*) There were no objections regarding the examination of insane persons in the first action.

Testimony of Mennecke. (*Tr. p. 1890.*) According to this, Mennecke himself filled out the registration forms, and they were treated in the same way as the registration forms of mental institutions. This was only so during the first visits of Mennecke, while the examinations were still taking place according to the prescribed medical points of view.

After autumn 1941 another procedure was adopted. The registration forms were no longer supplied by Tiergartenstrasse 4, but produced and filled out by the inspectorate of the concentration camp.

The filling out of the registration forms is restricted to a few points according to an order of the Reich Security Main Office. (*1151–PS, Pros. Ex. 411.*) It was sufficient to fill out the particulars of the form underlined in red. These were name, date of birth, religion, race, since when in institution, physical incurable complaints, disabled soldier, offense, former criminal offenses.

Testimony of Mennecke. (*Tr. p. 1914.*) He does not know what a physician is expected to tell from registration forms filled out in such a way.

No expert was present. (*NO–907, Pros. Ex. 412.*)

In the proceedings 14 f 13, the consideration of the disease was not the main thing.

Here there is talk about "special treatment 14 f 13"; it has nothing to do with euthanasia but is extermination. (*NO–158, Pros. Ex. 410.*)

Correspondence of the Main Economic and Administration Office with the concentration camp Gross-Rosen. (*1234–PS, Pros. Ex. 555.*) Only special treatment is mentioned. The word "euthanasia" nowhere appears.

Examination. The fact that the Mauthausen concentration camp is mentioned as a place of execution, which was not empowered to carry out the euthanasia within the framework of the order of 1 September 1939, shows the arbitrariness of the "action." It must be assumed that Himmler included Bernburg, favorably situated to him, in the exercise of his own full powers. The difference in the examination according to the directions and according to the proceedings applied in the concentration camp is shown in the correspondence of Mennecke.

Correspondence of Mennecke. (*NO–907, Pros. Ex. 412.*)

Testimony of Mennecke. (*Tr. p. 1882.*) According to this, it later on depended only on ascertaining reasons for the arrest, and not on the medical examination.

Letter from the concentration camp Gross-Rosen to Liebehenschel of 25 March 1942. (*1151–PS, Pros. Ex. 411.*) According to this, a part of the "eliminated prisoners" became "fit for work" again.

Communication of the concentration camp Gross-Rosen of 16 November 1941 about the elimination of prisoners. (*NO–158, Pros. Ex. 410.*) The killing was done at the institutions of Bernburg and in the concentration camp Mauthausen.

Connection of Karl Brandt with the Concentration Camps.

Affidavit of Dietzsch. (*NO–1314, Pros. Ex. 433.*) According to this, Karl Brandt was said to have been in Buchenwald.

Appendix—Affidavit of Dietzsch. (*Karl Brandt 98, Karl Brandt Ex. 39.*) Dietzsch corrects his supposition and explains he did not see Karl Brandt in Buchenwald.

Testimony of Hoven. (*Tr. p. 9911.*)

The correspondence submitted was conducted exclusively by offices of concentration camps.

Appendix—Report of Dr. Morgen shows that the right over life and death is assigned to Reich Leader SS Himmler. (*NO–2366, Pros. Ex. 526.*) The name of Karl Brandt is not mentioned in the correspondence.

The witness Mennecke cannot give any information about the activity of Karl Brandt within the framework of the special treatment 14 f 13 attributed to him by the indictment.

Euthanasia Practice on Children (Reich Committee)

Position taken in the indictment

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Position of the defense

Motive. From a medical standpoint, it is a humane motive to shorten the lives of children not fit to live.

Testimony of Schmidt. (*Tr. p. 1854.*) At the discussion in 1941 only medical viewpoints were dealt with. The Reich Committee was already being prepared before the authorization of 1 September 1939 (Leipzig case).

Time. Execution was in force from 1940 to 1944.

Testimony of Pfannmueller. (*Tr. p. 7310.*) Execution at Eglfing-Haar did not start before 1 June 1940.

Pfannmueller letter to Reich Committee of 17 January 1941. (*NO–1139, Pros. Ex. 346.*) It refers to agreement of 10 December 1940 in connection with decision of 18 August 1939.

Kaufbeuren documents. (*1696–PS, Pros. Ex. 357.*) According to this, euthanasia was carried on in the Irrsee Institute, even after the occupation in 1945.

Supplement, Affidavit of Weese. (*Karl Brandt 129, Karl Brandt Ex. 105.*) Opinion on the state of disease was arrived at objectively by medical examination.

Legal basis. Legal basis was the authorization of 1 September 1939, which had not been suspended or annulled for the activity of the Reich Committee.

Decree regarding treatment of malformed children. (*Brack 52, Brack Ex. 43.*) Circular of 1 July 1940, published in the Minis-

terial Gazette. There, compulsory reporting of malformed and insane children is provided for.

Organization.

Affidavit of Sprauer, according to which the direction of the Reich Committee was in the hands of von Linden at the Reich Ministry and not under Karl Brandt. (*3896–PS, Pros. Ex. 372.*)

Testimony of Karl Brandt, according to which the direction was with Linden of the Reich Ministry of the Interior. (*Tr. p. 2433.*)

Affidavits of Engel and Schaub. Karl Brandt was attached to the Fuehrer's General Headquarters. (*Karl Brandt 81, Karl Brandt Ex. 85; Karl Brandt 80, Karl Brandt Ex. 98.*)

Testimony of Mennecke. (*Tr. p. 1903.*) Mennecke never saw a document signed by Karl Brandt. He never saw him and never heard him speak. Karl Brandt was only available to give advice. In a few cases, he was consulted when there were doubts about the final expert opinion.

Testimony of Brack. (*Tr. p. 7612.*) According to this Bouhler and Brandt voiced their opinion on the judgment of experts only in questionable cases. Further observation was indicated if there were doubts at all.

Testimony of Karl Brandt. (*Tr. p. 2532.*) According to this, Karl Brandt resigned from the Reich Committee in the summer of 1942. He was not used as an expert.

Letter of the Reich Committee of 16 November 1943 regarding the child Anna Gasse. (*NO–890, Pros Ex. 443.*)

Testimony of Karl Brandt. (*Tr. p. 2541.*) By virtue of this letter, addressed to Karl Brandt, an inquiry by the Reich Committee is addressed to the Eichberg Institution. This incident is the outcome of the claim of an incompetent person. The letter shows precisely that Karl Brandt did not have an office of his own, but that he remitted the letter to the competent official authority.

Execution.

Registration was handled by the Reich Ministry of the Interior. (*NO–1132, Pros. Ex. 341.*)

The notification about the children was made, as required by law, by physicians, midwives, and clinics.

Testimony of Pfannmueller. (*Tr. p. 7312.*) According to this, the registration sheets were published in the gazette of the Reich Ministry.

Sick records had to be attached to the report. (*NO–1133, Pros. Ex. 335.*)

Directive issued by the Reich Ministry of the Interior to the effect that personnel and sick records are to be attached. (*NO–1132, Pros. Ex. 341.*)

Letter of 30 April 1941, with regard to the child Thalmeyer. (*NO–1138, Pros. Ex. 349.*) In that case a medical report on the child was especially required.

Testimony of Schmidt. (*Tr. p. 1828.*) According to this, the registration followed upon information obtained from health offices, midwives, and clinics for children.

Medical opinion was given by special advisers who cooperated with official physicians.

Affidavit of Weese. (*Karl Brandt 129, Karl Brandt Ex. 105.*) The transfer of partly Jewish children has no connection with the Reich Committee.

Directive issued by the Provincial President Bernotat of 15 May 1943 concerning the collection of part Jews. (*NO–893, Pros. Ex. 426.*)

Consent of the parents.

Letter of the Reich Committee of 9 January 1943 to the health office at Tuttlingen. (*Karl Brandt 40, Karl Brandt Ex. 84.*) There the competent authority declares that a transfer of a child is not permissible in principle if the consent of the parents is not given.

Testimony of Brack. (*Tr. p. 7612.*) The consent of the parents was secured by the official physician or by the physician in charge, in other words, before the child was taken to the clinic.

It was up to the practicing physicians to inform the parents of the type of treatment which the child would undergo and of the prospects of success. (*Brack 52, Brack Ex. 43.*) The probability of death was stressed.

Testimony of Karl Brandt. (*Tr. p. 2399.*) According to this, the parents were treated with care while being questioned, in order that their conscience should not bother them later.

Testimony of Karl Brandt. (*Tr. p. 2544.*) According to this the consent of the parents was not put into writing but was given orally and then a note made of it in the files. No child was removed against the express wishes of the parents.

How the killing was done.

Testimony of Pfannmueller (*Tr. p. 7331*) rebuts affidavit of Jordans (*3882–PS, Pros. Ex. 371*). According to to this, where treatment was not possible any more, putting to sleep by narcotics was effected by the physician of the institution. There was no National Socialist nursing staff to carry out the killing.

Testimony of Pfannmueller. (*Tr. p. 7304.*) Comment on the statement in the affidavit of Lehner according to which euthanasia was not practiced on children before the war.

Testimony of Pfannmueller. (*Tr. p. 7329.*) Comment on the conference of the Bavarian Ministry of the Interior in 1942. According to this, the starvation process had not been ordered but on account of the general food situation no additional food supplies

were permitted which exceeded the rations of the civilian population.

Affidavit of Weese. (*Karl Brandt 129*, *Karl Brandt Ex. 105.*) Graph indicating cases of death of insane persons in the Kaufbeuren Clinic from 1910 till 1944. (*Karl Brandt 123*, *Karl Brandt Ex. 93.*) The graph shows that during the membership of Karl Brandt in the Reich Committee the number of cases of death did not really exceed those of World War I. Only after his retirement does the curve rise suddenly.

Performance of experiments by Professor McCance on children not fit to live in the Military Hospital, Wuppertal, in 1946. (*Karl Brandt 93*, *Karl Brandt Ex. 29.*)

Testimony of Brack. (*Tr. p. 7716.*) According to this, the consent of the parents was secured in some form or other.

Authorization. The authorization was given for each case separately on the basis of the files.

Testimony of Pfannmueller. (*Tr. p. 7304.*) About the types of children in question.

Affidavit of Leusser. (*3864–PS*, *Pros. Ex. 367.*) There it is pointed out that the children stood at the lowest level of idiocy.

Testimony of Schmidt. (*Tr. p. 1821.*) The witness names the type of diseases in question. He says that the consultants and chief consultants gave the authorization.

Testimony of Pfannmueller. (*Tr. p. 7314.*) According to this, the authorization orders did not read that the life of the children was to be shortened, but it was only an authorization for treatment.

Affidavit of Schmidt. (*3816–PS*, *Pros. Ex. 370.*) The witness has seen many certificates of authorization, all of which were signed by Hegener.

Special authorization. The Reich Committee could not issue special authorizations for adults. The signature of Hegener in individual cases is in contradiction to issued directives. It was an arbitrary evasion of the decreed cessation of euthanasia.

*EXTRACTS FROM THE FINAL PLEA FOR THE DEFENDANT BRACK**

* * * * * * *

The defendants in this trial, who are doctors, were accused in General Taylor's opening speech of having committed atrocities under the guise of medical science. The defendant Brack is not one of these doctors. Brack would probably not even have appeared before you as a war criminal had his superior Bouhler been still alive. Brack worked as an expert in the Fuehrer's Chancellery and in his

*Final plea is recorded in mimeographed transcript, 18 July 1947, pp. 11220–11244.

field of work had nothing to do with medical problems. Nor is Brack accused by the prosecution of having participated in medical experiments.

However, Brack is accused of participation in the genocide policy of the Third Reich insofar as he participated in the Euthanasia Program and the sterilization experiments, and was conscious of their destructive purpose.

In the judgment of the IMT the word "euthanasia" or "Euthanasia Program" is not used at all. It only mentions measures that were taken for the purpose of killing all the old, mentally ill, and all those who had incurable diseases, in special institutions; this included German nationals and foreign workers who were unable to work. In the separate judgment of the defendant Frick,* too, only these measures are mentioned.

Any connection, or even the possibility of such a connection between these measures and persecution of the Jews, dealt with in a separate chapter, in particular with the plans drawn up in the summer of 1941 for a "final solution" of the Jewish question in Europe, was never established by the IMT nor even hinted at.

Until 1939 the word "euthanasia" was unknown to Brack as well as to large circles of the German population. That this word originally meant the "art" of dying, or to meet death with serene calm, had remained the secret of those scientists who were interested in the Greek language.

During the course of centuries the meaning of this word changed. It first became the expression for the attempt of the physician—originating in human compassion, developed by medical science—to alleviate the end of a dying person by soothing his pain. But then the meaning of the word, and with it the concept of euthanasia, was expanded, and towards the end of the 19th century it meant assistance in dying through an abbreviation of life if the life of the suffering person had lost its value in view of immediate and painful death, or as a result of an incurable disease.

It is a fact that this kind of euthanasia has been applied throughout the world since time began and can be traced back to the Twelve Tables of Ancient Rome and to the epoch of state socialism in antiquity.

The assertion of the prosecution that euthanasia was the product of National Socialism and its racial theories can be indisputably refuted by history.

Even if the prosecution is of a different opinion, the Tribunal cannot overlook the fact that the testimony of Karl Brandt, Brack,

*Defendant before International Military Tribunal. See Trial of the Major War Criminals, vol. I, pp. 298–301, Nuremberg, 1947.

Pfannmueller, Hederich, Schultze, Grabe, Gertrud Kallmeyer, and Walter Eugen Schmidt, all stated independently that the measures started according to Hitler's will in the autumn of 1939 only applied to incurable, mentally ill persons, and were suspended in 1941. For these measures, the participants used the word and the concept of "euthanasia" in the meaning of the final medical assistance, whether justly or injustly, will be discussed later.

It is not uninteresting to note that the word "Euthanasia Program" appears for the first time in the Brack affidavit (*NO-426, Pros. Ex. 160*), which was drawn up by the prosecution after several interrogations; Brack at that time was in a state of physical and mental exhaustion and, therefore, not in a position to realize clearly what he said.

The defense, in agreement with the prosecution, refrained from presenting an expert medical opinion, but did not, as the prosecution now asserts, refuse to present it.

I regret very deeply that the prosecution, when using the word "Euthanasia Program" coined by them, characterizes without sufficient proof the euthanasia applied in 1939–1941 for the incurably sick as the conscious and deliberate precursor of the different actions of annihilation which mark the milestones of the mental and moral ruins left to the German people by men who had become insane.

If the prosecution had been sure of their assumption, they would not have had to submit those extremely doubtful documents with which they tried to prove in cross-examination that the defendant Brack participated in planning the mass extermination of the Jews.

* * * * * * *

How, in the face of such insufficient evidence which is opposed by numerous cases of intervention for Jews in that period of time—I only recall the cases Warburg and Georgii—and in the face of Brack's sworn statements about his attitude towards Jewry, can the prosecution assert that Brack participated in planning the extermination of the Jews? In this way, the prosecution closed the circle incriminating Brack, which they drew round the euthanasia of incurable mental patients, the Action 14 f 13, and the final measures to exterminate the Jews.

I wish to stress again that everything that happened after the stop in August 1941 in the way of abuse by the euthanasia institutions had nothing to do with the euthanasia of the incurably insane which was supported by Brack. An opposing view would only be suitable to make a historical record which is not supported by the weight of the judgment of the International Military Tribunal, but merely corresponds to a conjecture which in the decisive points themselves is void of every substantiated basis.

* * * * * * *

d. Evidence

Prosecution Documents

Doc. No.	Pros. Ex. No.	Description of Document	Page
NO–426	160	Extract from the affidavit of defendant Brack, 14 October 1946, describing administrative details and procedure of the Euthanasia Program.	842
615–PS	246	Letter from Dr. Hilfrich, Bishop of Limburg, to the Reich Minister of Justice, 13 August 1941, protesting against the killing of mentally ill people.	845
NO–429	281	Extract from the affidavit of defendant Hoven, 24 October 1946, concerning the transfer of concentration camp inmates to euthanasia stations for extermination.	847
630–PS	330	Letter from Hitler to Karl Brandt and Bouhler, 1 September 1939, charging them with the execution of euthanasia.	848
NO–1135	334	Confirmation, 30 August 1940, of the transfer of mental patients with list of transferred patients attached.	848
1696–PS	357	Letter from Dr. Conti to the Mental Hospital in Kaufbeuren, 16 November 1939, requesting that questionnaires (attached) be filled out for individual patients; letter from the General Sick Transport Company to the Mental Hospital in Kaufbeuren, 12 May 1941, stating that the company would remove mental patients; report from the Provincial Association for Social Welfare in Swabia, 6 May 1941, that all transferred patients had died; letter from Gaum, 24 November 1942, to Dr. Leinisch stating that epileptics would be made available for research.	849
3896–PS	372	Extract from the affidavit of Dr. Ludwig Sprauer, 23 April 1946, concerning the organization of the Euthanasia Program.	853
NO–520	374	Letter from the chief of the institution for feeble-minded in Stetten to Dr. Frank, 6 September 1940, requesting that euthanasia be carried out only after legal basis was created.	854
NO–660	377	Note by Sellmer, 6 December 1940, describing the method of selection for euthanasia.	855
NO–018	404	Letter from Himmler to Brack, 19 December 1940, requesting that Euthanasia Station Grafeneck be discontinued and that motion pictures be shown to dispel rumors.	856

Doc. No.	Pros. Ex. No.	Description of Document	Page
NO–842	405	Letter from Brack to Dr. Schlegelberger, 18 April 1941, forwarding forms for euthanasia and suggesting that death notifications should not follow a stereotyped form.	857
NO–158	410	Letter from Hirche, administrator of the Mental Institution Bernburg, to camp commandant of the Gross-Rosen concentration camp, 19 March 1942, with list of inmates transferred from the concentration camp to Bernburg.	858
NO–907	412	Extract from letter from Dr. Fritz Mennecke to his wife, 25 November 1941, concerning his activities as physician selecting inmates of concentration camp Buchenwald for euthanasia.	861
NO–1007	413	Circular from Gluecks to concentration camp commandants, 27 April 1943, stating that in the future only insane prisoners should be used for Action "14 f 13" (euthanasia).	862
NO–891	414	Directive of the Reich Minister of the Interior, 6 September 1944, ordering euthanasia extended to insane Eastern workers.	863
1553–PS	428	Extract from the field interrogation of Kurt Gerstein, 26 April 1945, describing the mass gassing of Jews and other "undesirables."	865
NO–365	507	Unsigned draft letter from Dr. Wetzel to Rosenberg, 25 October 1941, dealing with Brack's collaboration in the construction of gas chambers for the extermination of Jews.	870

Defense Documents

Doc. No.	Def. Ex. No.	Description of Documents	
Karl Brandt 18	Karl Brandt Ex. 15	Extracts from the affidavit of Dr. Werner Kirchert, 29 January 1947, stating that Karl Brandt was not involved in the Euthanasia Program.	871
Karl Brandt 19	Karl Brandt Ex. 16	Affidavit of Alfred Rueggeberg, 23 January 1947, concerning radio discussions on euthanasia.	872
Karl Brandt 23	Karl Brandt Ex. 19	Affidavit of Eduard Woermann, 18 January 1947, concerning discussion of Karl Brandt and Pastor Bodelschwingh on euthanasia.	873
Pokorny 19	Pokorny Ex. 27	Affidavit of Dr. Helmuth Weese, 19 March 1947, concerning use of caladium seguinum for sterilization.	874

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Extracts from the testimony of prosecution witness Dr. Mennecke..... 875
Extracts from the testimony of defendant Brack..... 876
Extract from the testimony of prosecution witness Walter E. Schmidt..... 890
Extracts from the testimony of defendant Karl Brandt..... 892

PARTIAL TRANSLATION OF DOCUMENT NO–426 PROSECUTION EXHIBIT 160

EXTRACT FROM THE AFFIDAVIT OF DEFENDANT BRACK, 14 OCTOBER 1946, DESCRIBING ADMINISTRATIVE DETAILS AND PROCEDURE OF THE EUTHANASIA PROGRAM

* * * * * * *

The Euthanasia Program

4. The Euthanasia Program was initiated in the summer of 1939. Hitler issued a secret order to Professor Dr. Karl Brandt, Reich Commissioner for Medical and Health Matters, and at that time personal physician to the Fuehrer, and to Philipp Bouhler, charging them with responsibility for the killing of human beings who were unable to live, that is, the according of a mercy death to incurably insane persons. Prior to the issuance of this secret order, Bouhler had a conference with Dr. Brandt and Dr. Leonardo Conti, the Reich Chief for Public Health and State Secretary in the Ministry of Interior. On the basis of this order of Hitler, Bouhler and Brandt were to select doctors to carry out this program. Inasmuch as the insane asylums and other institutions were functions of the Ministry of Interior, Dr. Herbert Linden became the representative of the Ministry of Interior. Dr. Karl Brandt and Philipp Bouhler appointed Professor Dr. Heyde and Professor Dr. Nietsche along with several other medical men to aid in the execution of this Euthanasia Program.

5. Professor Dr. Karl Brandt was in charge of the medical section of the Euthanasia Program. In this capacity, as shown in the chart I have drawn, dated 12 September 1946, Dr. Karl Brandt appointed as his deputies Professor Heyde and Professor Nietsche. In charge of the administrative office under Brandt was first Herr Bohne and later Herr Allers. Three different names were used by Brandt's section in order to disguise the activities of the organization. The names of the organization are as follows:

Reich Association—Mental Institutions.
Charitable Foundation for Institutional Care.
General Patient Transport Company.

6. In the early stages of this program, Dr. Karl Brandt visited Philipp Bouhler and discussed with him many details of this program.

As a matter of fact, after such meetings between Brandt and Bouhler, I received many orders, more often from Bouhler than from Brandt directly.

7. In my capacity as Chief of Office II of Bouhler's Chancellery, I was ordered to carry out the administrative details of the Euthanasia Program. My deputy was Werner Blankenburg, who eventually became my successor, that is, in the beginning of 1942 when I joined the Waffen SS. Von Hegener, Reinh, Vorberg, and Dr. Hevelmann were members of my staff.

8. In the Ministry of the Interior, Dr. Linden was in charge of the Euthanasia Program and his deputy was Ministerialrat Franke. The Department for Public Health in the Ministry of the Interior had authority over all insane asylums of the Reich, and in this position, my department as well as the office of Dr. Brandt maintained close liaison in order to operate this Euthanasia Program efficiently.

The Procedure

9. By order of Dr. Linden, the directors of all insane asylums in the Reich had to complete questionnaires for each patient in their institutions. These questionnaires were drafted by Bouhler, Heyde, Nietsche, and others in several of their many conferences. The questionnaires were then forwarded to the Ministry of the Interior to be distributed to the various insane asylums and similar institutions. Theoretically, Dr. Linden's office had the questionnaires returned and then forwarded them to the administrative section of the office of Dr. Brandt. The program was so arranged that photostats of each questionnaire were to be sent to four experts consisting of about 10 to 15 doctors. I do not remember the names of all the members of this panel, but Dr. Pfannmueller, Dr. Schumann, Dr. Faltlhauser, and Dr. Rennaux are fresh in my memory in this connection. Each of these experts indicated by making a certain comment on the questionnaire whether or not the patient could be transferred to an observation institution and eventually killed. The questionnaire was then forwarded to a senior expert. According to the regulation, the senior expert was only entitled to order the transfer of the patient when all four experts voted for the transfer. This senior expert also marked the questionnaire and then submitted it to Dr. Linden who ordered the insane asylum to transfer the patient to one of the observation institutions. Offhand I can remember, among others, the names of the following observation institutions: Eglfing-Haar, Kempten, Jena, Buch, Arnsberg.

10. At these institutions the patients were under the observation of the doctor in charge for a period of 1 to 3 months. The physician had the right to exempt the patient from the program if he decided that the patient was not incurable. If he agreed with the opinion

of the senior expert, the patient was transferred to a so-called Euthanasia Institution. I can recall the names of the Euthanasia Institutions—

Grafeneck—under Dr. Schuman.
Brandenburg—under Dr. Hennecke.
Hartheim—under Dr. Rennaux.
Sonnenstein—under Dr. Schmalenbach.
Hadamar—(I do not remember under whose leadership).
Bernburg—under Dr. Behnke or Dr. Becker.

In these institutions the patient was killed by means of gas by the doctor in charge. To the best of my knowledge, about fifty to sixty thousand persons were killed in this way from autumn 1939 to the summer of 1941.

11. The order issued by the Fuehrer to Brandt and Bouhler was secret and never published. The Euthanasia Program itself was kept as secret as possible, and for this reason, relatives of persons killed in the course of the program were never told the real cause of death. The death certificates issued to the relatives carried fictitious causes of death such as heart failure. All persons subjected to the Euthanasia Program did not have an opportunity to decide whether they wanted a mercy death, nor were their relatives contacted for approval or disapproval. The decision was purely within the discretion of the doctors. The program was not restricted to those cases in which the person was "in extremis".

12. Hitler's ultimate reason for the establishment of the Euthanasia Program in Germany was to eliminate those people confined to insane asylums and similar institutions who could no longer be of any use to the Reich. They were considered useless objects and Hitler felt that by exterminating these so-called useless eaters, it would be possible to relieve more doctors, male and female nurses, and other personnel, hospital beds and other facilities for the armed forces.

Reich Committee for Research on Hereditary Diseases and Constitutional Susceptibility to Severe Diseases

13. This committee, which was also a function of the Euthanasia Program, was an organization for the killing of children who were born mentally deficient or physically deformed. All physicians assisting at births, midwives, and maternity hospitals were ordered by the Ministry of Interior to report such cases to the office of Dr. Linden in the Ministry of Interior. Experts in the medical section of Dr. Brandt's office were then ordered to give their opinion in each case. As a matter of fact, the complete file on each case was sent to the offices of Bouhler and Dr. Brandt in order to obtain their opinions and to decide the fate of each child involved. In many cases these children were to

be operated upon in such a manner that the result was either complete recovery or death. Death resulted in a majority of these cases. The program was inaugurated in the summer of 1939. Bouhler told me that Dr. Linden had orders to obtain the consent of the parents of each child concerned. I do not know how long this program continued, since I joined the Waffen SS in 1942.

The Connection between the Euthanasia Program and SS Brigadefuehrer Globocnik

14. In 1941 I received an oral order to discontinue the Euthanasia Program. I received this order either from Bouhler or from Dr. Brandt. In order to preserve the personnel relieved of these duties and to have the opportunity of starting a new Euthanasia Program after the war, Bouhler requested, I think after a conference with Himmler, that I send this personnel to Lublin and put it at the disposal of SS Brigadefuehrer Globocnik. I then had the impression that these people were to be used in the extensive Jewish labor camps run by Globocnik. Later, however, at the end of 1942 or the beginning of 1943, I found out that they were used to assist in the mass extermination of the Jews, which was then already common knowledge in higher Party circles.

15. Among the doctors who assisted in the Jewish extermination program were Eberle and Schumann; Schumann performed medical experiments on prisoners in Auschwitz. It would have been impossible for these men to participate in such things without the personal knowledge and consent of Karl Brandt. The order to send these men to the East could have been given only by Himmler to Brandt, possibly through Bouhler.

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TRANSLATION OF DOCUMENT 615-PS
PROSECUTION EXHIBIT 246

LETTER FROM DR. HILFRICH, BISHOP OF LIMBURG, TO THE REICH MINISTER OF JUSTICE, 13 AUGUST 1941, PROTESTING AGAINST THE KILLING OF MENTALLY ILL PEOPLE

The Bishop of Limburg

Limburg/Lahm, 13 August 1941

To the Reich Minister of Justice
Berlin

Regarding the report submitted on July 16 (*sub. IV, pp. 6-7*) by the Chairman of the Fulda Bishops' Conference, Cardinal Dr. Bertram, I consider it my duty to present the following as a concrete illustration of destruction of so-called "useless life".

About 8 kilometers from Limburg in the little town of Hadamar, on a hill overlooking the town, there is an institution which had formerly served various purposes and of late had been used as a nursing home. This institution was renovated and furnished as a place in which, by concensus of opinion, the above-mentioned euthanasia has been systematically practiced for months—approximately since February 1941. The fact is, of course, known beyond the administrative district of Wiesbaden because death certificates from the Hadamar-Moenchberg Registry are sent to the home communities. (Moenchberg is the name of this institution because it was a Franciscan monastery prior to its secularization in 1803.)

Several times a week busses arrive in Hadamar with a considerable number of such victims. School children of the vicinity know this vehicle and say: "There comes the murder-box again." After the arrival of the vehicle, the citizens of Hadamar watch the smoke rise out of the chimney and are tortured with the ever-present thought of depending on the direction of the wind.

The effect of the principles at work here are that children call each other names and say, "You're crazy; you'll be sent to the baking oven in Hadamar." Those who do not want to marry, or find no opportunity, say, "Marry, never! Bring children into the world so they can be put into the bottling machine!" You hear old folks say, "Don't send me to a state hospital! When the feeble-minded have been finished off, the next useless eaters whose turn will come are the old people."

All God-fearing men consider this destruction of helpless beings a crass injustice. And if anybody says that Germany cannot win the war, if there is yet a just God, these expressions are not the result of a lack of love for the Fatherland but of a deep concern for our people. The population cannot grasp the fact that systematic actions are carried out which in accordance with paragraph 211 of the German Penal Code are punishable with death. High authority as a moral concept has suffered a severe shock as a result of these happenings. The official notice that N. N. died of a contagious disease and, therefore, his body had to be burned, no longer finds credence, and official notices of this kind which are no longer believed have further undermined the ethical value of the concept of authority.

Officials of the Secret State Police, it is said, are trying to suppress discussion of the Hadamar occurrences by means of severe threats. In the interest of public peace, this may be well intended. But the knowledge, and the conviction, and the indignation of the population, cannot be changed by it; the conviction will be increased with the bitter realization that discussion is prohibited by threats, but that the actions themselves are not prosecuted under penal law.

Facta loquuntur.

I beg you most humbly, Herr Reich Minister, in the sense of the report of the Episcopate of 16 July of this year, to prevent further transgressions of the Fifth Commandment of God.

[Signed] Dr. Hilfrich

I am submitting copies of this letter to the Reich Minister of the Interior and to the Reich Minister for Church Affairs.

[Initialed by the above]

PARTIAL TRANSLATION OF DOCUMENT NO-429 PROSECUTION EXHIBIT 281

EXTRACT FROM THE AFFIDAVIT OF DEFENDANT HOVEN, 24 OCTOBER 1946, CONCERNING THE TRANSFER OF CONCENTRATION CAMP INMATES TO EUTHANASIA STATIONS FOR EXTERMINATION

AFFIDAVIT

I, Waldemar Hoven, being duly sworn, depose and state:

* * * * * * *

Transfer of Inmates to the Bernburg Euthanasia Station for Extermination

I became aware in 1941 that the so-called Euthanasia Program for the extermination of the mentally and physically deficient was being carried out in Germany. At that time, the camp commandant Koch called all the important SS officials of the camp together and informed them that he had received a secret order from Himmler to the effect that all mentally and physically deficient inmates of the camp should be killed. The camp commandant stated that higher authorities from Berlin had ordered that all the Jewish inmates of the Buchenwald concentration camp be included in this extermination program. In accordance with these orders 300 to 400 Jewish prisoners of different nationalities were sent to the euthanasia station at Bernburg for extermination. A few days later I received a list of the names of those Jews who were exterminated at Bernburg from the camp commandant and I was ordered to issue falsified death certificates. I obeyed this order. This particular action was executed under the code name "14 f 13". I visited Bernburg on one occasion to arrange for the cremation of two inmates who died in the Wernigerode branch (Aussenkommando Wernigerode) of the Buchenwald concentration camp.

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TRANSLATION OF DOCUMENT 630-PS
PROSECUTION EXHIBIT 330

LETTER FROM HITLER TO KARL BRANDT AND BOUHLER, 1 SEPTEMBER 1939, CHARGING THEM WITH THE EXECUTION OF EUTHANASIA

[Letterhead: A. HITLER]

Berlin, 1 September 1939

Reichsleiter Bouhler and Dr. Brandt, M. D., are charged with the responsibility of enlarging the authority of certain physicians to be designated by name in such a manner that persons who, according to human judgment, are incurable can, upon a most careful diagnosis of their condition of sickness, be accorded a mercy death.

[Signed] A. HITLER

[Handwritten note]

Given to me by Bouhler on 27 August 1940

[Signed] DR. GUERTNER

PARTIAL TRANSLATION OF DOCUMENT NO-1135
PROSECUTION EXHIBIT 334

CONFIRMATION, 30 AUGUST 1940, OF THE TRANSFER OF MENTAL PATIENTS WITH LIST OF TRANSFERRED PATIENTS ATTACHED

CONFIRMATION

In accordance with the decision of the State Ministry of the Interior (Public Health Division), dated 8 January 1940, on orders from the Reich Association of Mental Institutions [Reichsarbeitsgemeinschaft der Heil und Pflegeanstalten] and as responsible chief of the General Sick Transport Company G.m.b.H. [Gemeinnuetzige Krankentransport G.m.b.H.], I have taken charge of the transfer to a Reich institution of the patients enumerated in the list below.

Eglfing, 30 August 1940 [Signature illegible]

Commissioner of General Sick Transport Company G.m.b.H.*

TRANSFER MEMORANDUM FOR NIEDERNHART

Handed over were—

1. 149 patients with their own clothing, underwear, money, and belongings.
2. 149 files with personal records (case histories).
3. A list of the amount of money of each patient. A receipt was made out for this purpose.
4. A list of the names.

Eglfing-Haar, 30-8-40

[Signed] Head Nurse LOTTE ZELL

*Literally: Nonprofit Sick Transport Company.

TRANSLATION OF DOCUMENT 1696–PS
PROSECUTION EXHIBIT 357

LETTER FROM DR. CONTI TO THE MENTAL HOSPITAL IN KAUFBEUREN, 16 NOVEMBER 1939, REQUESTING THAT QUESTIONNAIRES (ATTACHED) BE FILLED OUT FOR INDIVIDUAL PATIENTS; LETTER FROM THE GENERAL SICK TRANSPORT COMPANY TO THE MENTAL HOSPITAL IN KAUFBEUREN, 12 MAY 1941, STATING THAT THE COMPANY WOULD REMOVE MENTAL PATIENTS; REPORT FROM THE PROVINCIAL ASSOCIATION FOR SOCIAL WELFARE IN SWABIA, 6 MAY 1941, THAT ALL TRANSFERRED PATIENTS HAD DIED; LETTER FROM GAUM, 24 NOVEMBER 1942, TO DR. LEINISCH STATING THAT EPILEPTICS WOULD BE MADE AVAILABLE FOR RESEARCH

The Reich Minister of the Interior

Berlin, NW 40, Koenigsplatz 6, 16 November 1939

IV g 4178 /39–5100

Telephone:
Dept. Z, I, II, V, VIII 11 00 27
Dept. II, IV, VI
(Unter den Linden 72); 12 00 34
Tel. Address: Reichsinnenminister.

To the Head of the Hospital for Mental Cases
Kaufbeuren
or his deputy in Kaufbeuren.

With regard to the necessity for a systemized economic plan for hospitals and nursing institutions, I request you to complete the attached registration forms immediately in accordance with the attached instruction leaflet and to return them to me. If you yourself are not a doctor, the registration forms for the individual patients are to be completed by the supervising doctor. The completion of the questionnaires is, if possible, to be *done on a typewriter.* In the column "Diagnosis" I request a statement as exact as possible, as well as a short description of the condition, if feasible.

In order to expedite the work, the registration forms for the individual patients can be dispatched here in several parts. The last consignment, however, must arrive in any case at this Ministry *at the latest* by 1 January 1940. I reserve for myself the right, should occasion arise, to institute further official inquiries on the spot through my representative.

per proxi: Dr. Conti

Certified:
(Sd.) [Illegible]
Administrative Secretary.

Registration Form 1 To be typewritten

Current No_____

Name of the Institution:_____

At: _____

Surname and Christian name of the patient:_____

At birth_____

Date of birth:_____Place:_____District:_____

Last place of residence_____District:_____

Unmarried, married, widow, widower, divorced:_____

Religion:_____ Race*:_____

Previous profession:_____Nationality:_____

Army service when? 1914–18 or from 1–9–39_____

War injury (even if no connection with mental disorder) Yes/No_____

How does war injury show itself and of what does it consist?_____

_____

Address of next of kin:_____

Regular visits and by whom (address):_____

Guardian or nurse (name, address):_____

Responsible for payment:_____

Since when in Institution_____

Whence and when handed over:_____

Since when ill:_____

If has been in other institutions, where and how long:_____

Twin? Yes/No_____ Blood relations of unsound mind:_____

Diagnosis: _____

Clinical description (previous history, course, condition; in any case ample data regarding mental condition):_____

_____

Very restless? Yes/No_____Bedridden? Yes/No_____

Incurable physical illness: Yes/No (which)_____

Schizophrenia: Fresh attack_____Final condition_____Good recovery_____

Mental debility: Weak_____Imbecile_____Idiot_____

Epilepsy: Psychological alteration_____Average frequency of the attacks_____

Therapeutics (insulin, cardiazol, malaria, permanent result: _____

Salvarsan, etc. when?)_____ Yes/No_____

Admitted by reason of par. 51, par. 42b German Penal Code, etc. through_____

_____

Crime:_____Former punishable offenses:_____

Manner of employment (detailed description of work):_____

Permanent/Temporary employment, independent Worker? Yes/No_____

Value of work (if possible compared with average performance of healthy person)_____

This space to be left blank.

_____Place, Date_____

_____

Signature of the head doctor or his representative (doctors who are not phychiatrists or neurologists, please state same).

*German or of similar blood (of German blood), Jew, Jewish mixed breed Grades I or II, Negro (mixed breed).

General Sick Transport Company, G.m.b.H.
Dept. II/d, H/K

Berlin, W. 9, 12 May 1941
Potsdamer Platz 1.

To the Director of the Hospital
of the District Association of Swabia,
Kaufbeuren/Bavaria.

Dear Director,

By order of the Reich Defense Commissioner, I must remove mental cases from your institution and from the branch at Irrsee to another institution. A total of 140 persons are to be transported, 70 on 4 June and 70 on 5 June. I forward you herewith Transport Lists Nos. 8, 9, 10, and 11 in triplicate. The additional names on the lists are intended for possible deficits (discharged meanwhile, died, etc.).

The marking of the patients is most suitably done by means of a strip of adhesive tape, on which the name is written in indelible pencil, to be pasted between the shoulder blades. At the same time the name is to be put on an article of clothing.

The hospital reports and personal histories are to be prepared for the transportation and to be handed to our director of transport, Herr Kuepper; in the same way, the personal possessions of the patients, as well as money and articles of value.

I enclose property information cards and information cards as to the defrayer of the expenses, which must be completed accurately and handed in at the time of transportation. Money and articles of value, besides being noted on the property information cards, must also be noted on separate special lists (in duplicate).

Transportation takes place:

On 4 June, 8:46 a. m. from Kaufbeuren—70 patients
On 5 June, 8:46 a. m. from Kaufbeuren—70 patients

Our director of transport, Herr Kuepper, will visit you the previous day in order to discuss further details with you.

I further request you to provide the patients with food (2–3 slices of bread and butter each and some cans of coffee).

Heil Hitler!
(sd) [Illegible]
General Sick Transport Company, G.m.b.H.

PROVINCIAL ASSOCIATION FOR SOCIAL WELFARE
SWABIA

Address: Augsburg 1, P. O. Box Regierungspraesident

Tel. No. 5842
Cashier's Office: Principal Govt.
Cashier's Office Augsburg.
Post Office check account: Munich No. 1624

Director Dr. Faltlhauser, of the Hospital,
Kaufbeuren.

Your reference: 2080. Your letter of 13 November 1940.

Our reference:
(must always be
referred to).

II–B–7–2.

Augsburg, 6 May 1941

Concerning the transfer of patients.

I have the honor to inform you that the female patients transferred from your institution on 8 November 1940 to the institutions in Grafeneck, Bernburg, Sonnenstein, and Hartheim all died in November of last year.

[Signed] [Illegible]

Enclosures:

Copy

No. 5255 c 39
State Ministry of the Interior

Munich, 24 November 1942
to the Director of the
Hospital, Kaufbeuren,
Obermed. Rat
Dr. Faltlhauser.

To: Chief Physician, Dr. W. Leinisch
Guenzburg.

Re letter of 13–11–1942.

Dear Doctor,

In your letter of 13–11–1942 you requested me to send suitable epileptics for the carrying out of your research work. I had an opportunity to discuss this with the Obermedizinalraete Dr. Faltlhauser and Dr. Pfannmueller. Both will willingly deliver suitable patients to you. For various reasons patients from the Institution at Kauf-

beuren are primarily to be chosen. If this institution has no suitable material, I agree to the transfer of patients from Eglfing-Haar to Guenzburg for your research work. I request that you get in touch with Dr. Faltlhauser.

Heil Hitler!
[Signed] GAUM

PARTIAL TRANSLATION OF DOCUMENT 3896–PS PROSECUTION EXHIBIT 372

EXTRACT FROM THE AFFIDAVIT OF DR. LUDWIG SPRAUER, 23 APRIL 1946, CONCERNING THE ORGANIZATION OF THE EUTHANASIA PROGRAM

AFFIDAVIT

I, Dr. Ludwig Sprauer, born on 19 October 1884, now living at Konstanz, Baden, Salmannsweilergasse 2, make the following statement under oath:

I passed my state examination for medicine in Freiburg in 1907, and since 1919 was active in the civil service. During the following 14 years I was active as Bezirksarzt in Stockach, Oberkirch, Konstanz. I joined the NSDAP in 1933. From 1934 until 1944 I was the highest medical officer of Baden and held the title Ministerialrat. My highest superior was the Reich Minister of the Interior, Dr. Frick. As Frick's subordinate I traveled several times, perhaps every 2 to 3 months to Berlin, to take part in discussions, conferences, etc., in the Reich Ministry of the Interior.

These took place in the Reich Ministry of the Interior, Berlin, Unter den Linden 72–74; later in the Reich Ministry of the Interior office on Voss-Strasse. On one such occasion in Berlin, Dr. Linden, Ministerialdirigent in the Reich Ministry of the Interior, stated that it was planned to introduce a euthanasia law. For military-political reasons to create more space, the incurably insane were to be done away with. The asylums thus vacated were in part asked for by the SS to be used for national political educational institutions.

A transportation company was founded for the execution of all these measures. This company worked hand in hand with the so-called Reich Committee for Research into Hereditary Ailments. This Reich concern was managed by Frick's Ministerialdirigent Dr. Linden.

In the course of these measures from 1941 through 1944, thousands of persons were transferred from Baden's asylums to places like Hadamar, Grafeneck, etc., and were killed there. The killings, however, were not solely confined to the mentally sick. In the course of the same campaign, steps were taken by order of the Reich Ministry of the Interior to eliminate particularly old but also young people who were ill.

The persons killed in the course of this program included not only those who were mentally sick, but also those who suffered from arteriosclerosis, tuberculosis, cancer, and other ailments. Most of those were older people who were inmates of public institutions at the state's expense, and who in a respectable society would have been taken care of from public funds. These people were brought from public asylums in Baden to Hadamar, Grafeneck, and other asylums and killed there. In what manner they were killed, I do not know. In this way space was made available in the institutions for the armed forces and for the National Socialist educational institutions.

The whole program was camouflaged on the outside and falsified death certificates were made out.

* * * * * * *

PARTIAL TRANSLATION OF DOCUMENT NO–520
PROSECUTION EXHIBIT 374

LETTER FROM THE CHIEF OF THE INSTITUTION FOR FEEBLE-MINDED IN STETTEN TO DR. FRANK, 6 SEPTEMBER 1940, REQUESTING THAT EUTHANASIA BE CARRIED OUT ONLY AFTER LEGAL BASIS WAS CREATED

L. Schlaich, Stetten i. R.
Chief of the Institution
for Feeble-Minded and Epileptics.

Stetten, i. R., 6 September 1940

To the Reich Minister of Justice, Dr. Frank
Berlin

Dear Reich Minister,

The measures at present being taken with mental patients of all kinds have caused a complete lack of confidence in justice among large groups of the people. Without the consent of relatives or guardians, such patients are being transferred to different institutions. After a short time they are notified that the person concerned has died of some disease. In view of the abundance of death notices people are convinced that these sick people are being done away with.

Since from the institution under my direction altogether 150 of the patients entrusted to me are to be transferred to such an institution (75 on the 10th and 75 on the 13th of September) I take the privilege of asking: Is it possible for such a measure to be carried out without a pertinent law having been promulgated? Is it not the duty of every citizen to resist under all circumstances an act not justified by law, even forbidden by law, even if such acts are carried out by state agencies?

On account of the complete secrecy and camouflage under which the measures are carried out, not only are the wildest rumors cir-

culating among the people (for example, that people unable to work on account of age or injuries received during the World War have also been done away with or are to be done away with), but it seems as if the selection of the persons concerned is performed in a wholly arbitrary manner.

If the state really wants to carry out the extermination of these or at least of some mental patients, shouldn't a law be promulgated, which can be justified before the people—a law which would give everyone the assurance of careful examination as to whether he is due to die or entitled to live and which would also give the relatives a chance to be heard, in a similar way, as provided by the law for the Prevention of Hereditarily Affected Progeny?

With regard to the patients entrusted to the care of our institutions in the future, I urgently pray that everything possible be done to suspend the execution of this measure until a clear legal situation has been established.

Heil Hitler!

[Signed] SCHLAICH

I have forwarded a copy of this letter by the same mail to the chief of the Reich Chancellery, Reichsminister Dr. Lammers.

TRANSLATION OF DOCUMENT NO-660
PROSECUTION EXHIBIT 377

NOTE BY SELLMER, 6 DECEMBER 1940, DESCRIBING THE METHOD OF SELECTION FOR EUTHANASIA

Subject: Mental Institutions

The following is for your personal information. Please destroy this sheet afterwards.

For some time the inmates of mental institutions have been visited by a commission which functions on orders from some very high office. The commission's task is to find out which inmates should be selected for transport to certain other institutions. The commission bases its decision on the records of the institution. The patients who are then transferred are examined again in the institution designated by the commission and then the decision is made whether they should be released from their sufferings.

The body itself is cremated and the ashes are placed at the disposal of the relatives. Small mistakes in notifying are naturally always liable to occur, and in the future it will not be possible to avoid them. The commission itself is anxious to avoid all mistakes. I could give you further information but I would like to abstain from it and beg you to look me up when you visit the Gauleitung.

I believe that we National Socialists can welcome this action which is extraordinarily serious for the affected individual. I beg you, therefore, to oppose all rumors and grumblings with the necessary emphasis by representing our point of view in regard to these matters.

Nuernberg, 6 December 1940

Heil Hitler!
[Signed] SELLMER
Gaustabsamtsleiter

[Stamp]
National Socialist German Labor Party
Gau Franconia

TRANSLATION OF DOCUMENT NO–018
PROSECUTION EXHIBIT 404

LETTER FROM HIMMLER TO BRACK, 19 DECEMBER 1940, REQUESTING THAT EUTHANASIA STATION GRAFENECK BE DISCONTINUED AND THAT MOTION PICTURES BE SHOWN TO DISPEL RUMORS

Top Secret

19 December 1940

SS Standartenfuehrer Viktor Brack
Staff Leader at Reichsleiter Bouhler's Office
Berlin W 8

Dear Brack,

I hear there is great excitement on the Alb because of the Grafeneck Institution.

The population recognizes the gray automobile of the SS and think they know what is going on at the constantly smoking crematory. What happens there is a secret and yet is no longer one. Thus the worst feeling has arisen there, and in my opinion there remains only one thing, to discontinue the use of the institution in this place and in any event disseminate information in a clever and sensible manner by showing motion pictures on the subject of inherited and mental diseases in just that locality.

May I ask for a report as to how the difficult problem is solved?

Heil Hitler!
[Initialled] H[EINRICH] H[IMMLER]

TRANSLATION OF DOCUMENT NO–842
PROSECUTION EXHIBIT 405

LETTER FROM BRACK TO DR. SCHLEGELBERGER [1], 18 APRIL 1941, FORWARDING FORMS FOR EUTHANASIA AND SUGGESTING THAT DEATH NOTIFICATIONS SHOULD NOT FOLLOW A STEREOTYPED FORM

Viktor Brack Oberdienstleiter

Berlin, 18 April 1941

[Stamp]

21 [Penciled]

26 April 1941
Dept: [Illegible]
[Handwritten] Gg.

Strictly Confidential

My dear Party comrade Dr. Schlegelberger,

[Handwritten] Top Secret

According to agreement I send you herewith a *folder with forms* needed for your ascertainment and partial medical preparation; also another folder with forms for further clerical elaboration resulting from the death of the patient.[2] The records are secret, however, and I would appreciate if you would keep them *under lock and key.* Some more things are, of course, necessary for proper recording and administrative routine, but I do not believe that they are of any interest to you. Thereto belong, for instance, the death notifications to the relatives of the patient. These are to be kept somehow different according to the district and kind of relatives; they must be altered frequently to avoid stereotype texts and therefore a sample letter would only irritate. I would like to call your attention especially to the card files Nos. 13 and 14. On their reverse sides you will find a list of authorities to be informed.

When again reviewing the files which you put at my disposal, I found some details which ought to be clarified and settled; I would be grateful to you for doing so. Therefore, I shall forward them to you separately on Monday or Tuesday next week.

Heil Hitler!
Respectfully yours
[Signed] Brack

[1] Defendant in case of United States vs. Josef Altsctoetter, et al. See Vol. III.
[2] Enclousures were not available.

PARTIAL TRANSLATION OF DOCUMENT NO–158
PROSECUTION EXHIBIT 410

LETTER FROM HIRCHE, ADMINISTRATOR OF THE MENTAL INSTITUTION BERNBURG, TO CAMP COMMANDANT OF THE GROSS-ROSEN CONCENTRATION CAMP, 19 MARCH 1942, WITH LIST OF INMATES TRANSFERRED FROM THE CONCENTRATION CAMP TO BERNBURG

Mental Institution, Bernburg
Reference: B e. vH.

Bernburg, 19 March 1942
Box 266
Consultation only by appointment

To
Camp Commandant
Concentration Camp
Gross-Rosen

[Stamp]
Concentration Camp Gross-Rosen
Administration
Received: 23 March 1942
Initials [Illegible]

Registered

Subject: Transport of 19 March 1942

Enclosed you will find a list of the camp inmates who arrived here on 19 March 1942 from your concentration camp.

Heil Hitler!
[Signed] HIRCHE

1 Enclosure

List of the camp inmates transferred on 19 March 1942 from the Gross-Rosen concentration camp to Bernburg

139/K1. 19–3–1942

Bernburg (Gross-Rosen)
[Signed] STEINHARDT
[Signed] POETZINGER
Dr. STEINMEYER
[Signed] POETZINGER
[Signed] HIRCHE

				1942
26746	10423	BIER, Rudolf	Koeln 2.11.1901	divorced 19.3.
26747	10424	BECKERS, Herm	Hamburg 18.9.1923	single 19.3.
26748	10444	BAJGELMANN, Isaak	Czenstochau 4.8.1909	single 19.3.
26749	10412	COHEN, Arthur Isr	Dellwig-Westf. 15.8.1908	single 19.3.
26750	10468	ECKHAUS, Herm	Berlin C 2, 1.12.1922	single 19.3.

26751	10395	Edel, Gerh. Isr	Nakel, 30.5.1914	single 19.3.
26752	10440	Eisner, Otto	Bochtitz 26.4.1910	divorced 19.3.
26753	10439	Fleischner, Rich	Kolin/Elbe 20.12.1902	married 19.3.
26754	10438	Fried, Hans, Isr	Budweis 8.3.1919	single 19.3.
26755	10450	Haase, Siegfried	Schoenlanke 3.8.1920	single 19.3.
26756	10436	Hauser, Max	Kastel 15.12.1908	single 19.3.
26757	10394	Hecht, Jacob, Isr.	Hamburg-Altona 18.10.1896	single 19.3.
26758	10410	Lubnicki, Jacob	Wuppertal/Elberf. 28.6.1918	single 19.3.
26759	10409	Markuse, Esriel	Warschau 14.3.1897	widower 19.3.
26760	10470	Nachmann, Erich	Ulm/D. 6.10.1907	married 19.3.
26761	10406	Pollak, Heinr	Lemberg 30.9.1904	married 19.3.
26762	10517	Pufe, Otto	Osternburg 16.3.1917	single 19.3.
26763	10421	Rosenbaum, Otto Isr	Muehlheim/Ruhr 2.6.1894	married 19.3.
26764	10486	Robalewski, Leo	Kl. Tarpen 15.12.1915	single 19.3.
26765	10595	Rose, Reinhold	Cochelna 4.5.1907	single 19.3.
26766	10579	Rekel, Josef	Tarnow 10.1.1909	single 19.3.
26767	10405	Roubicek, Karl	Horovice/Boehmen 16.6.1906	single 19.3.
26768	10577	Rwaski, Wladislaus	Kszywystock 19.6.1919	single 19.3.
26769	10509	Rost, Hans Willi	Apolda/Weimar 15.7.1920	single 19.3.
26770	10606	Schuensmann, Wilh	Wittenberge 23.8.1892	widower 19.3.
26771	10576	Skratak, Viktor	Stazow 5.3.1909	married 19.3.
26772	10575	Smigielski, Stanislaus	Coloneg 25.10.1918	single 19.3.
26773	10425	Sommer, Arthur Isr	Frankfurt/M. 4.12.1900	single 19.3.
26774	10578	Sikorski, Stanislaw	Lublin 27.1.1923	single 19.3.
26775	10488	Sommer, Wenzel	Litzmannstadt 7.8.1907	married 19.3.

26776	10404	SEITMANN, Simon	Warschau 17.12.1896	widower 19.3.
26777	10594	SARBACH, Heinz	Erfurt 28.4.1921	single 19.3.
26778	10483	SCHROFF, Karl	Reilingen/ Baden 11.6.1910	single 19.3.
26779	10484	SCHILLING, Aug	Rake/Wohlau 9.3.1896	single 19.3.
26780	10516	SCHUELER, Manfred Richard	Sonneberg/ Thuer. 17.9.21	single 19.3.
26781	10487	SCHMIDT, Johann	Nuernberg 8.4.1900	divorced 19.3.
26782	10426	SCHINDLER, Ernst Isr.	Sandhofen/ Mannh. 7.6.1906	single 19.3.
26783	10427	SPIRA, Alfred	Wien, 20.11.1908	single 19.3.
26784	10454	STERN, Zudik	Rozniatow 28.9.1908	married 19.3.
26785	10485	STUKA, Wladimir	Maehr. Sternberg 8.2.1907	married 19.3.
26786	10453	WEINBERGER, Erich, Isr.	Wien 16.6.1916	single 19.3.
26787	10452	WEISZ, Ignaz	Munkatesh/ Ungarn 30.6.1914	single 19.3.
26788	10503	WALEZAK, Theophil	Hohensalza 19.4.1907	single 19.3.
26789	10512	WELSER, Karl	Pilgram/Prot. 10.11.1918	single 19.3.
26790	10505	WALCZYK, Josef	Bokow 24.2.1908	married 19.3.
26791	10461	WUTKOWSKI, Willi Max	Graudenz 16.4.1902	divorced 19.3.
25792	10506	WOZNICZKA, Ignac	Kadziak 8.7.1916	single 19.3.
26793	10504	WASOLOWSKI, Marian	Markstaedt 29.11.1909	single 19.3.
26794	10507	WENDOLOWSKI, Josef	Warschau 7.1.1912	single 19.3.
26795	10604	WOLF, Karl	Ged 10.5.1903	single 19.3.
26796	10595	ZBYTNIEWSKI, Zymunt	Czekarzowice 1.1.1905	single 19.3.
26797	10592	ZBYTNIEWSKI, Zdzislaw	Czekarzowice 2.3.1910	married 19.3.
26798	10502	ZUCHOWSKI, Felike	Lietzendorf/W. 2.8.18	married 19.3.
26799	10565	ZIMMERMANN, Willi	Dortmund 10.2.1917	single 19.3.

26800	10521	ZDYBIK, Wladislaus	Borownica 25.4.1915	single 19.3.
26801	10480	ZIELKE, Karl	Butow 4.2.1904	married 19.3.
26802	10422	BIRNBERG, Markus	Kolomea 5.10.03	divorced 19.3.

PARTIAL TRANSLATION OF DOCUMENT NO-907 PROSECUTION EXHIBIT 412

EXTRACT FROM LETTER FROM DR. FRITZ MENNECKE TO HIS WIFE, 25 NOVEMBER 1941, CONCERNING HIS ACTIVITIES AS PHYSICIAN SELECTING INMATES OF CONCENTRATION CAMP BUCHENWALD FOR EUTHANASIA

Letter No. 8

Weimar, 25 November 1941,
Hotel Elephant
2058 hours

At 7 o'clock tomorrow morning we will be awakened. At about 8 o'clock we will have our coffee and then we will drive out in Schmalenbach's car, but he himself will soon leave for Dresden again. On Thursday and Friday a meeting will be held in Pirna in connection with the action in which problems of the future will be discussed and in which Schmalenbach will take part as the medical adjutant of Herr Brack (Jennerwein). No experts will be present * * *. The first working day at Buchenwald is over. At 8:30 this morning we were out there. At first I introduced myself to the authoritative leaders. The deputy of the camp commandant is SS Hauptsturmfuehrer Florstaedt; camp physician is SS Obersturmfuehrer Dr. Hoven. At first another 40 reports of a first portion of Aryans had to be completed. The two other colleagues worked on these yesterday already. Out of these 40 I worked up about 15. After this whole portion had been worked up, Schmalenbach left for Dresden. He will not return until our work here is done. Following this, the "examination" of the patients was carried out, i. e., a presentation of the individuals and a comparison with the entries taken from the files. We did not finish this work until noon, because the other two colleagues worked only in theory yesterday, so that I had to "re-examine" those whom Schmalenbach (and I myself this morning) had prepared and Mueller did his people. At 12 o'clock we stopped for lunch * * *.

Afterwards we continued our examination until about 4 o'clock. I myself examined 105 patients, Mueller 78 patients, so that finally a total of 183 reports were ready as a first group. As a second group a total of 1,200 Jews followed, all of whom do not need to be "examined", but where it is sufficient to take the reasons for their arrest

from the files (often very voluminous!) and to transfer them to the reports. Therefore, it is merely theoretical work which will certainly keep us busy until next Monday inclusive, perhaps even longer. Of this second group (Jews), we completed today. I myself did 17, and Mueller 15. At 5 o'clock sharp, "we threw away the trowel" and went for supper * * *.

Exactly as the day I described above, the following days will pass—with exactly the same program and the same work. After the Jews, another 300 Aryans follow as a third group who will again have to be "examined". Therefore, we are busy here until the end of next week. Then on Saturday, 6 December, we shall go home.

* * * * * * *

TRANSLATION OF DOCUMENT NO–1007
PROSECUTION EXHIBIT 413

CIRCULAR FROM GLUECKS TO CONCENTRATION CAMP COMMANDANTS, 27 APRIL 1943, STATING THAT IN THE FUTURE ONLY INSANE PRISONERS SHOULD BE USED FOR ACTION "14 F 13" (EUTHANASIA)

SS Economic and Administrative Main Office
Division Chief D Concentration Camps
D I/1/File No.: 14 f 13/L/S.—
Secret Journal No. 612/43

Oranienburg, 27 April 1943.

Subject: Action 14 f 13 in Concentration Camps.
Re: Our Order—D I/1/File No. 14 f 13/Ot/S.—Secret Diary No. 32/43 of 15 January '43.
Enclosures: None.

[Stamp]
Top Secret
---------th copy

To the Camp Commanders of the Concentration Camps
Dachau, Sachsenhausen, Buchenwald, Mauthausen, Flossenbuerg, Neuengamme, Auschwitz, Gross-Rosen, Natzweiler, Stutthof, Ravensbrueck, Riga, Hertogenbosch, Lublin, and Bergen-Belsen.

Copy to: Chief of Amt D II, III in the building.

The Reich Leader SS and Chief of the German Police has decreed that in future only insane prisoners can be selected for the Action 14 f 13 by the medical commissions appointed for this purpose.

All other prisoners unfit for work (persons suffering from tuberculosis, bedridden invalids, etc.) are definitely to be excluded from this action. Bedridden prisoners are to be given suitable work which can be performed in bed.

The order of the Reich Leader SS must be strictly observed in the future.

Requests for gasoline for this purpose will therefore be discontinued.

[Signed] GLUECKS
SS Brigadefuehrer and Generalmajor of the Waffen SS

TRANSLATION OF DOCUMENT NO-891
PROSECUTION EXHIBIT 414

DIRECTIVE OF THE REICH MINISTER OF THE INTERIOR, 6 SEPTEMBER 1944, ORDERING EUTHANASIA EXTENDED TO INSANE EASTERN WORKERS

Reich Minister of the Interior

Berlin, 6 September 1944

g 9255/44

To:

a. The Reich Governor [Reichsstatthalter] (State government)
b. The Oberpraesidenten (administration of the provincial association)
c. The County Presidents
d. The Police President in Berlin
e. The Lord Mayor [Oberbuergermeister] of the Reich capital Berlin.

Re: Mentally insane Eastern workers and Poles—Circular decrees of the Reich Minister of the Interior of—*A g 9255/44-5100*—.

1. Due to the considerable number of Eastern workers and Poles brought into the German Reich for employment, the assignment of mental cases among them to German asylums is constantly increasing. The purpose of such assignments must be in any case the speediest possible recovery to working ability. Thus every means of modern therapy must also be applied to those mentally insane people. But due to lack of space in German institutions there can be no justification for patients who are considered incurable and, therefore, unable to work again in a reasonably short time to remain permanently or for a long time in German institutions. In order to avoid this, the following is ordered:

2. In the following list I have established for each district in the Reich a collective list for incurable mentally insane Eastern workers and Poles. They should be assigned to those institutions immediately if possible. If this is impossible due to urgency or to transportation difficulties, the institution in question should deliver their Eastern or Polish patients to the collecting institution in their respective district within one month at the most. It is not necessary to carry out the removal if the patient is considered able to leave the institution within 6 weeks at the latest.

3. It is the task of the collecting institution to decide whether the restoration of working ability might be considered within a reasonable period of time.

4. The expenses from the date of registration in the collecting institution are to be taken over by the head of the Central Financial Clearing Office of the sanatorium in Linz/Upper Danube, P. O. Box 324, which has to be informed immediately of such assignments. The fixed rate for patients of the general class will be paid to the institutions. The Eastern workers and Poles already assembled in collecting institutions are to be reported on a list immediately to the Central Financial Clearing Office. The expenses for those patient are transferred as from 1 October 1944 to the Central Accounts Office.

5. After 4 weeks, at the latest, of the registration in the collecting institution a short report on the prognosis of the case and on the question of working ability has to be sent to the head of the Central Financial Clearing Office. It is the task of that office to direct the transportation of patients from the collecting institutions to nearby special asylums in their home district.

6. Only those people are to be considered as Poles who were brought into the Reich for employment. This decree does not apply to the local Polish population.

7. The leaders of mental institutions in the districts, etc., are to be informed by their superior officials, and the leaders of welfare and private institutions by their competent higher administrative authorities. The required copies are enclosed herewith.

List of the collecting institutions

1. For East Prussia, Danzig, and West Prussia and Wartheland: Mental Institution Tiegenhof.

2. For Upper and Lower Silesia and the Sudetengau: Mental Institution Lueben.

3. For Pomerania, Mecklenburg, Kurmark, and Berlin: Mental Institution Landsberg-Warthe.

4. For Schleswig-Holstein and Hamburg: Mental Institution Schleswig.

5. For Bremen, Weser-Ems, Hanover-East, Hanover-South, and Brunswick: Mental Institution Lueneburg.

6. For the Rhine province, Westphalia, and Lippe: Mental Institution Bonn.

7. For Baden, Westmark, Wuerttemberg, and Hohenzollern: Mental Institution Schussenried.

8. For Bavaria: Mental Institution Kaufbeuren.

9. For Kurhesse, Nassau, and Land Hesse: Mental Institution Hadamar.

10. For Thuringia-Land and Province Saxony, Anhalt: Mental Institution Pfaffenrode.

11. For the Alps [Alpen] and Danube districts: Mental Institution Mauer-Oehling.

By Order:

Wiesbaden, 11 September 1944
Landeshaus

11*a* One copy to the County Mental Institution, Eichberg.
With the request to acknowledge and to take further steps.

By Order:

Landesrat

PARTIAL TRANSLATION OF DOCUMENT 1553-PS PROSECUTION EXHIBIT 428

EXTRACT FROM THE FIELD INTERROGATION OF KURT GERSTEIN, 26 APRIL 1945, DESCRIBING THE MASS GASSING OF JEWS AND OTHER "UNDESIRABLES"

Deposition of Kurt Gerstein

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Hearing of the massacres of idiots and insane people at Grafeneck, Hadamar, etc., shocked and greatly affected me, having such a case in my family. I had but one desire—to gain an insight into this whole machinery and then to shout it to the whole world! With the help of two references written by the two Gestapo employees who had dealt with my case, it was not difficult for me to enter the Waffen SS.

From March 10 to June 2, 1941, I was given elementary instruction as a soldier at Hamburg-Langehorn, Arnhem, and Oranienburg, together with 40 doctors. Because of my twin studies—technology and medicine—I was ordered to enter the medical-technology branch of the SS Fuehrungshauptamt (SS Operational Main Office)—Medical Branch of the Waffen SS—Amtsgruppe D (Division D), Hygiene Department. Within this branch, I chose for myself the job of immediately constructing disinfecting apparatus and filters for drinking water for the troops, the prison camps, and the concentration camps. My close knowledge of the industry caused me to succeed quickly where my predecessors had failed. Thus, it was possible to decrease considerably the death toll of prisoners. On account of my successes, I very soon became lieutenant. In December 1941 the tribunal which had decreed my exclusion from the NSDAP obtained knowledge of my having entered the Waffen SS. Considerable efforts were made to remove and to persecute me but, due to my successes, I was declared sincere and indispensable.

In January 1942 I was appointed chief of the technical branch of disinfection, which also included the branch dealing with strong poison gases for disinfection. On 8 June 1942 SS Sturmbannfuehrer Guenther of the RSHA entered my office. He was in plain clothes and I did not know him. He ordered me to get a hundred kilograms of prussic acid and to accompany him to a place which was only known to the driver of the truck. We left for the potassium factory near Collin (Prague). Once the truck was loaded, we left for Lublin (Poland). We took with us Professor Pfannenstiel, Professor for Hygiene at the University of Marburg on the Lahn. At Lublin, we were received by SS Gruppenfuehrer Globocnik. He told us, "This is one of the most secret matters there are, even the most secret. Whoever talks of this shall be shot immediately. Yesterday, two talkative men died." Then he explained to us that at the present moment—17 August 1942—there were three installations:

1. Belcec, on the Lublin-Lvov road, in the sector of the Russian demarcation line. Maximum 15,000 persons a day. Seen!
2. Sobiber, I do not know exactly where it is located. Not seen. 20,000 persons per day.
3. Treblinka, 120 kilometers NNE of Warsaw. 25,000 persons per day. Seen!
4. Maidanek, near Lublin. Seen—in the state of preparation.

Globocnik then said: "You will have to handle the sterilization of very large quantities of clothes, 10 or 20 times the amount of the clothing and textile collection, which is only arranged in order to conceal the source of these Jewish, Polish, Czech, and other clothes. Your other duties will be to change the method of our gas chambers (which are run at the present time with the exhaust gases of an old Diesel engine), using more poisonous material, having a quicker effect: prussic acid. But the Fuehrer and Himmler, who were here on August 15, the day before yesterday, ordered that I personally should accompany all those who are to see the installations.

Then Professor Pfannenstiel asked: "What does the Fuehrer say?" Then Globocnik, now Chief of Police and SS, from the Adriatic Riviera to Trieste, answered: "Quicker, quicker! Carry out the whole program!" And then Dr. Herbert Linden, Ministerialdirektor in the Ministry of the Interior said: "But would it not be better to burn the bodies instead of burying them? A future generation might think differently of these matters!" * * * Globocnik replied: "But, gentlemen, if after us such a cowardly and rotten generation should arise that it does not understand our work which is so good and so necessary, then, gentlemen, all National Socialism will have been for nothing. On the contrary, bronze plaques should be put up with the inscription that it was we, we who had the courage to achieve

this gigantic task. And Hitler said: 'Yes, my good Globocnik, that is the word, that is my opinion, too.' "

The next day we left for Belcec, a small special station of two platforms against a hill of yellow sand, immediately to the north of the Lublin-Lvov road and railway. To the south, near the road were some service houses with a signboard: "Belcec, Service Center of the Waffen SS." Globocnik introduced me to SS Hauptsturmfuehrer Obermeyer from Pirmasens, who with great restraint showed me the installations. No dead were to be seen that day but the smell of the whole region, even from the main road, was pestilential. Next to the small station there was a large barrack marked "Cloakroom," and a door marked "Valuables." Next to that, a chamber with a hundred "barber's" chairs. Then came a corridor, 150 meters long, in the open air and with barbed wire on both sides. There was a signboard: "To the baths and inhalations"! Before us we saw a house, like a bathhouse, with concrete troughs to the right and left containing geraniums or other flowers. After climbing a small staircase, we came to 3 garage-like rooms on each side, 4 x 5 meters in size and 1.90 meters high. At the back were invisible wooden doors. On the roof was a Star of David made out of copper. At the entrance to the building was the inscription, "Heckenholt Foundation." That was all I noticed on that particular afternoon.

Next morning, a few minutes before 7, I was informed that in 10 minutes the first train would arrive. And indeed, a few minutes later the first train came in from Lemberg [Lvov]; 45 cars, containing 6,700 persons, 1,450 of whom were already dead on arrival. Behind the little barbed-wire openings were children, yellow, half scared to death, women, and men. The train stopped; 200 Ukrainians, forced to do this work, opened the doors and drove all the people out of the coaches with leather whips. Then, through a huge loud-speaker, instructions were given to them to undress completely and to hand over false teeth and glasses—some in the barracks, others right in the open air. Shoes were to be tied together with a little piece of string handed to everyone by a small Jewish boy of 4 years of age; all valuables and money were to be handed in at the window marked "Valuables", without receipt. Then the women and girls were to go to the hairdresser who cut off their hair in one or two strokes, after which it vanished into huge potato bags "to be used for special submarine equipment, door mats, etc.", as the SS Unterscharfuehrer on duty told me.

Then the march began. To the right and left, barbed wire; behind, two dozen Ukrainians with guns. Led by a young girl of striking beauty they approached. With Police Captain Wirth, I stood right in front of the death chambers. Completely naked, they marched by, men, women, girls, children, babies, even one-legged persons, all of them naked. In one corner, a strong SS man told the poor devils in

a strong deep voice: "Nothing whatever will happen to you. All you have to do is to breathe deeply; it strengthens the lungs. This inhalation is a necessary measure against contagious diseases; it is a very good disinfectant!" Asked what was to become of them, he answered: "Well, of course the men will have to work, building streets and houses. But the women do not have to. If they wish they can help in the house or the kitchen." Once more, a little bit of hope for some of these poor people, enough to make them march on without resistance to the death chambers. Most of them, though, knew everything, the smell had given them a clear indication of their fate. And then they walked up the little staircase—and behold the picture: Mothers with babies at their breasts, naked, lots of children of all ages, naked too; they hesitate, but they enter the gas chambers, most of them, without a word, pushed by the others behind them, chased by the whips of the SS men. A Jewess of about 40 years of age, with eyes like torches, calls down the blood of her children on the heads of their murderers. Five lashes in her face, dealt by the whip of Police Captain Wirth himself, drive her into the gas chamber. Many of them say their prayers; others ask, "Who will give us the water for our death?" Within the chambers, the SS press the people closely together; Captain Wirth had ordered "Fill them up full." Naked men stand on the feet of the others. 700–800 crushed together on 25 square meters, in 45 cubic meters! The doors are closed!

Meanwhile the rest of the transport, all naked, waited. Somebody said to me: "Naked, in winter! Enough to kill them!" The answer was: "Well, that's just what they are here for!" And at that moment I understood why it was called the Heckenholt Foundation. Heckenholt was the man in charge of the Diesel engine, the exhaust gases of which were to kill these poor devils. SS Unterscharfuehrer Heckenholt tried to set the Diesel engine going, but it would not start! Captain Wirth came along. It was obvious that he was afraid because I was a witness of this breakdown. Yes, indeed, I saw everything and waited. Everything was registered by my stop watch. 50 minutes—70 minutes—the Diesel engine did not start! The people waited in their gas chambers—in vain. One could hear them cry. "Just as in a synagogue," says SS Sturmbannfuehrer Professor Dr. Pfannenstiel, Professor for Public Health at the University of Marburg/Lahn, holding his ear close to the wooden door! Captain Wirth, furious, dealt the Ukrainian who was helping Heckenholt 11 or 12 lashes in the face with his whip. After 2 hours and 49 minutes—as registered by my stop watch—the Diesel engine started. Up to that moment the people in the four chambers already filled were still alive—4 times 750 persons in 4 times 45 cubic meters! Another 25 minutes went by. Many of the people, it is true, were dead by that time. One could see that through the little window as the electric lamp revealed

for a moment the inside of the chamber. After 28 minutes only a few were alive. After 32 minutes all were dead! From the other side, Jewish workers opened the wooden doors. In return for their terrible job, they had been promised their freedom and a small percentage of the valuables and the money found. The dead were still standing like stone statues, there having been no room for them to fall or bend over. Though dead, the families could still be recognized, their hands still clasped. It was difficult to separate them in order to clear the chamber for the next load. The bodies were thrown out blue, wet with sweat and urine, the legs covered with excrement and menstrual blood. Everywhere among the others were the bodies of babies and children. But there is no time!—Two dozen workers were busy checking the mouths, opening them with iron hooks—"Gold on the left, no gold on the right!" Others checked anus and genitals to look for money, diamonds, gold, etc. Dentists with chisels tore out gold teeth, bridges, or caps. In the center of everything was Captain Wirth. He was on familiar ground here. He handed me a large tin full of teeth and said: "Estimate for yourself the weight of gold! This is only from yesterday and the day before! And you would not believe what we find here every day! Dollars, diamonds, gold! But look for yourself!" Then he led me to a jeweler who was in charge of all these valuables. After that they took me to one of the managers of the big store, Kaufhaus des Westens, in Berlin, and to a little man whom they made play the violin. Both were chiefs of the Jewish worker units. "He is a captain of the Royal and Imperial Austrian Army, and has the German Iron Cross 1st Class," I was told by Hauptsturmbannfuehrer Obermeyer.

The bodies were then thrown into large ditches about 100 x 20 x 12 meters located near the gas chambers. After a few days the bodies would swell up and the whole contents of the ditch would rise 2–3 meters high because of the gases which developed inside the bodies. After a few more days the swelling would stop and the bodies would collapse. The next day the ditches were filled again, and covered with 10 centimeters of sand. A little later, I heard, they constructed grills out of rails and burned the bodies on them with Diesel oil and gasoline in order to make them disappear. At Belcec and Treblinka nobody bothered to take anything approaching an exact count of the persons killed. Actually, not only Jews, but many Poles and Czechs, who, in the opinion of the Nazis, were of bad stock, were killed. Most of them died anonymously. Commissions of so-called doctors, who were actually nothing but young SS men in white coats, rode in limousines through the towns and villages of Poland and Czechoslovakia to select the old, tubercular, and sick people and have them done away with shortly afterwards in the gas chambers. They were the Poles and Czechs of category No. III, who did not deserve to live because they were unable to work. Police Captain Wirth asked me not to

propose any other kind of gas chamber in Berlin, but to leave everything the way it was. I lied—as I did in each case all the time—and said that the prussic acid had already deteriorated in shipping and had become very dangerous, that I was therefore obliged to bury it. This was done right away. The next day, Captain Wirth's car took us to Treblinka, about 75 miles NNE of Warsaw. The installations of this death center scarcely differed from those at Belcec, but they were even larger. There were eight gas chambers and whole mountains of clothes and underwear about 35–40 meters high. Then a banquet was given in our "honor," attended by all the employees of the institution. The Obersturmbannfuehrer, Professor Pfannenstiel, Hygiene Professor at the University of Marburg/Lahn, made a speech: "Your task is a great duty, a duty useful and necessary." To me alone he talked of this institution in terms of "beauty of the task"; "humane cause"; and speaking to all of them he said: "Looking at the bodies of these Jews, one understands the greatness of your good work!"

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TRANSLATION OF DOCUMENT NO–365
PROSECUTION EXHIBIT 507

UNSIGNED DRAFT LETTER FROM DR. WETZEL TO ROSENBERG, 25 OCTOBER 1941, DEALING WITH BRACK'S COLLABORATION IN THE CONSTRUCTION OF GAS CHAMBERS FOR THE EXTERMINATION OF JEWS

"Draft" [penciled notation]

Reich Ministry for the Occupied Territories
Referent AGR. Dr. Wetzel

Berlin, 25 October 1941

Secret

Re: Solution of the Jewish Question.

To the Reich Commissioner for the East.

Re: Your Report of 4 October 1941 Concerning Solution of the Jewish Question.

Referring to my letter of 18 October 1941, you are informed that Oberdienstleiter Brack of the Chancellery of the Fuehrer has declared himself ready to collaborate in the manufacture of the necessary shelters as well as the gassing apparatus. At the present time, the apparatus in question are not on hand in the Reich in sufficient number; they will first have to be manufactured. Since in Brack's opinion the manufacture of the apparatus in the Reich will cause more difficulty than if manufactured on the spot, Brack deems it most expedient to send his people directly to Riga, especially his chemist Dr. Kall-

meyer, who will have everything further done there. Oberdienstleiter Brack points out that the process in question is not without danger, so special protective measures are necessary. Under these circumstances, I beg you to turn to Oberdienstleiter Brack, in the Chancellery of the Fuehrer, through your Higher SS and Police Leader, and to request the dispatch of the chemist Dr. Kallmeyer, as well as of further aides. I draw attention to the fact that Sturmbannfuehrer Eichmann, the Referent for Jewish questions in the RSHA, is in agreement with this process. On information from Sturmbannfuehrer Eichmann, camps for Jews are to be set up in Riga and Minsk to which Jews from the old Reich territory may possibly be sent. At the present time, Jews being deported from the old Reich are to be sent to Litzmannstadt [Lodz], but also to other camps, to be later used as labor in the East, so far as they are able to work.

As affairs now stand, there are no objections against doing away with those Jews who are not able to work—with the Brack remedy. In this way occurrences would no longer be possible such as those which, according to a report presently before me, took place at the shooting of Jews in Vilna [Vilnyus] and which, considering that the shootings were public, were hardly excusable. Those able to work, on the other hand, will be transported to the East for labor service. It is self-understood that among the Jews capable of work, men and women are to be kept separate.

I beg you to advise me regarding your further steps.

"N. d. H. M."

[Lightly penciled notation, meaning copy for the Minister.]

"Wet 25/10" [in ink]

PARTIAL TRANSLATION OF DOCUMENT KARL BRANDT 18
KARL BRANDT DEFENSE EXHIBIT 15

EXTRACTS FROM THE AFFIDAVIT OF DR. WERNER KIRCHERT, 29 JANUARY 1947, STATING THAT KARL BRANDT WAS NOT INVOLVED IN THE EUTHANASIA PROGRAM

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As a former medical officer of the Waffen SS, I had in 1939 a clinical assignment as medical assistant in the University Clinic of the Charité in Berlin. In September 1939 Reich Physician SS Dr. Grawitz summoned me and asked me to make a list of the German lunatic asylums and the number of their inmates, based on the data in the Reich medical calendar. The reason, I was told, was the fact that, due to the evacuation of the West Wall zone, the inmates had to be transferred to other asylums. After I had finished compiling the list and

had handed it in, Grawitz sent me to Dr. Hevelmann at the Chancellery of the Fuehrer. There I learned that it was actually a matter of *euthanasia* of the insane, and that the transfer was only a pretext. It was pointed out to me that it was on direct orders from the Fuehrer and that Reichsleiter Bouhler had been instructed to carry it out.

* * * * * * *

At first, three institutions in different parts of Germany were mentioned. The insane people who were to come under the program were to be selected, and Heyde, as chief expert, reserved the final decision for himself. Everything was to be based on strictly medical views and only such persons were to be selected who in a psychiatric sense could be called "siech" (incurably ill).

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During all the negotiations the names which were mentioned of the persons who took part were Grawitz, Hevelmann, Heyde, Blankenburg, Brack, and Bouhler. Not a single word was said about Dr. Karl Brandt. Everything at that time was still in the early stages.

Later the problem arose again, when I was department head with Reich Health Leader Dr. Conti; that was at the end of the summer of 1941 when the Fuehrer's order came that *euthanasia* should be stopped. But here too the name of Professor Dr. Karl Brandt was never mentioned.

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TRANSLATION OF KARL BRANDT DOCUMENT 19
KARL BRANDT DEFENSE EXHIBIT 16

AFFIDAVIT OF ALFRED RUEGGEBERG, 23 JANUARY 1947, CONCERNING RADIO DISCUSSIONS ON EUTHANASIA

I, Alfred Rueggeberg, factory owner in Marienheide, have been told by the certifying notary that I am liable to punishment if I make a false statement under oath.

I declare under oath that my statement is true and is being made to be presented as evidence to the Military Tribunal I, at the Palace of Justice in Nuernberg, Germany:

In summer 1945 I listened to a BBC broadcast from England, which was an interview between the English radio commentator (as far as I remember it was Mr. Robert Graham) and Pastor von Bodelschwingh of Bethel.

In the course of this interview Pastor von Bodelschwingh pointed out that a number of years ago the place now occupied by the radio commentator had been occupied by Professor Brandt and Herr Bouhler who, under Hitler's orders, were discussing questions on euthanasia.

Questioned by the commentator, Pastor von Bodelschwingh said almost literally—in any case in effect—the following:

"You must not picture Professor Brandt as a criminal, but rather as an idealist."

This radio talk left me under the impression that Pastor Bodelschwingh did not agree with the nature of Professor Brandt's activities, yet he had a favorable opinion of his human qualities.
Gummersbach, 23 January 1947.

[Signed] Alfred Rueggeberg

TRANSLATION OF KARL BRANDT DOCUMENT 23 KARL BRANDT DEFENSE EXHIBIT 19

AFFIDAVIT OF EDUARD WOERMANN, 18 JANUARY 1947, CONCERNING DISCUSSIONS OF KARL BRANDT AND PASTOR BODELSCHWINGH ON EUTHANASIA

The Director of the Institution Bethel
Dpt. Bethel-office

Bethel, near Bielefeld, 18 January 1947

AFFIDAVIT

I, the undersigned Pastor Eduard Woermann in Bethel near Bielefeld, have been informed that I am liable to punishment if I should give a false statement under oath. I hereby affirm the following:

The director of the Bodelschwingh institutions in Bethel near Bielefeld, Pastor D. Friedrich von Bodelschwingh, who died 4 January 1946, had several discussions with Professor Dr. Karl Brandt on the question of "the extirpation of life not worth living", in February 1941 and during the following months. Pastor D. Bodelschwingh reported about this only very discreetly within a very close circle of coworkers, to which I belonged.

He emphasized then that—

1. Though they held fundamentally different views of these measures, he had met a willingness on Professor Dr. Brandt's part to hear the objections.

2. Professor Dr. Brandt had talked about "completely extinguished life", while other exponents of these measures based them upon the formula "incurable" or "hopeless".

3. Professor Dr. Brandt was aware of the fallibility of these measures, and he was prompted to act, not by brutality, but by a certain idealism which was inherent in his conception of life.

I give my permission for this statement to be presented as evidence to the International Military Tribunal I in the Palace of Justice in Nuernberg.

[Signed] Eduard Woermann

AFFIDAVIT OF DR. HELMUTH WEESE, 19 MARCH 1947, CONCERNING USE OF CALADIUM SEGUINUM FOR STERILIZATION

I, the undersigned, Professor Dr. Helmuth Weese, resident of Wuppertal-Elberfeld, have first been duly warned that I shall be subject to punishment if I give a false affidavit. I declare under oath that my statement is true and was made to be introduced as evidence before the Military Tribunal I in the Palace of Justice of Nuernberg, Germany.

When the question is put to me whether it is to be assumed that a doctor, after studying the monograph by G. Madaus and Fr. E. Koch: "Studies of Animal Experiments," pertaining to the question of sterilization by medication (by means of caladium seguinum (dieffenbachia seguina)), Journal for the Entire Experimental Medicine, vol. 109, p. 68, 1941, could become convinced that human beings can be sterilized with caladium seguinum, I have the following to say about it:

It is pointed out in the investigation referred to above that the authors succeeded in sterilizing rats by feeding them with extract of caladium seguinum. This is proved by mating experiments as well as by anatomical investigations. In order to effect this sterilization of both female and male rats, daily doses of ½ cc. for each rat weighing from 150–180 grams had to be administered 30–50 times and 40–90 times daily, respectively, without being certain of successful results. To apply this to a man weighing 70 kilograms, it would mean administering 200 grams of extract daily.

The investigations show abundantly that a considerable number of animals treated perished from the poisonous effects of the caladium extract. The extract therefore has no specific effect on the reproductive system. It is still completely unknown whether these harmful secondary effects are due to an element in the extract or some kind of accompanying ingredients.

Such types of unspecific injuries of the reproductive system are known to be caused in man in a similar manner also by other agents, for example, by the excessive misuse of nicotine, morphine, and the like, in which case, however, they too appear only along with most severe impairment of other functions.

First of all every doctor faces the question as to whether these experiments on rats are at all applicable to men. Madaus and Koch reject this from the start, because for them it is merely a question of determining whether the popular medical practice of making men impotent by administering sizable quantities of caladium extract can be corroborated by animal experiments.

The prerequisite for administering caladium extract to human beings in our countries would be the planting in Central Europe of caladium seguinum, the habitat of which is in tropical South America. This seems extremely improbable even to an only moderately experienced natural scientist. Even if the planting were successful, this would not necessarily mean that it produces, in our moderate zone, the same effective agents in a sufficient quantity.

Because of the unspecific effect of the caladium extract, its virulently poisonous quality, the doubt as to whether it can be planted and used in our moderate zone, I consider it extremely improbable that even a doctor of only average education will attempt with conviction the experiment of sterilizing human beings with caladium extract on the basis of the work of Madaus and Koch. Convincing papers for the problem referred to other than the work of Madaus and Koch are not known to me.

Wuppertal-Elberfeld
19 March 1947

[Signed] Prof. Dr. Helmuth Weese

EXTRACTS FROM THE TESTIMONY OF PROSECUTION WITNESS DR. MENNECKE*

DIRECT EXAMINATION

* * * * * * *

Mr. McHaney: Doctor, were all the concentration camp inmates selected actually insane?

Witness Mennecke: No.

Q. Will you explain your answer please?

A. By insanity we mean a disease which shows characteristic interferences with mental activity. I will not describe them but merely call them characteristics. That is what we mean by insanity. This condition was not prevalent in the majority of cases among inmates in the concentration camps.

Q. Were any inmates selected only for the reason that they were unable to work?

A. That is possible.

Q. Were people selected who had diseases other than those of the mind, such as tuberculosis?

A. Yes. Such people were also included.

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*Complete testimony is recorded in mimeographed transcript, 16, 17 Jan. 1947, pp. 1866–1946.

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MR. MCHANEY: The last question, Dr. Mennecke. Would you be willing to tell the Tribunal how you now feel about your participation in the "euthanasia" program?

WITNESS MENNECKE: Yes. I am willing to say something on that subject. I deeply regret the fact that I was drawn into this program in 1940. After the collapse, when the total extent of the extermination of human beings became known to the public—and to me for the first time—I was ashamed that I had ever had any part in this program (even though in a subordinated position), and I am still ashamed today. That is what I have to say.

MR. MCHANEY: Thank you, Dr. Mennecke. I have no further questions.

EXTRACTS FROM THE TESTIMONY OF DEFENDANT BRACK*

EXAMINATION

JUDGE SEBRING: Witness, when adult persons were selected for euthanasia and sent by the transport to euthanasia stations for that purpose, by what methods were the mercy deaths given?

DEFENDANT BRACK: The patients went to a euthanasia institution after the written formalities were concluded—I need not repeat these formalities here, they were physical examination, comparison of the files, etc. Then the patients were led to a gas chamber and were there killed by the doctors with carbon monoxide gas (CO).

Q. Where was that carbon monoxide obtained, by what process?

A. It was in a compressed gas container, like a steel oxygen container, such as is used for welding—a hollow steel container.

Q. And these people were placed in this chamber in groups, I suppose, and then the monoxide was turned into the chambers?

A. Perhaps I had better describe this in some detail. Bouhler's basic requirement was that the killing should not only be painless, but also imperceptible. For this reason, the photographing of the patients, which was only done for scientific reasons, took place before they entered the chamber, and the patients were completely diverted thereby. Then they were led into the gas chamber which they were told was a shower room. They were then in groups of perhaps 20 or 30. They were gassed by the doctor in charge.

Q. Have you ever been present when a mercy death was accorded to these people by that process?

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*Complete testimony is recorded in mimeographed transcript, 7, 8, 9, 12, 13, 14, 15, 16, 19 May 1947, pp. 7413–7772.

A. Yes. I had to be present because Bouhler wanted a report on whether things were being done according to his orders, and in a dignified and not a brutal fashion.

Q. And you found from your inspection and witnessing these ceremonies that they were being done in accordance with Bouhler's orders, in a dignified and painless sort of way?

A. Yes. But let me say I was already convinced that the method was painless. And I also saw that by this method the patient did not realize that he was about to be killed. There were benches and chairs in the chamber. A few minutes after the gas was let in, the patient became sleepy and tired and died after a few minutes. They simply went to sleep without even knowing that they were going to sleep, and that was one of the most essential requirements.

Q. When was the first time that you witnessed one of these procedures?

A. The first time was on the occasion of an experiment with four such patients. I think it must have been December 1939 or January 1940. I know there was snow on the ground at the time. That is why I remember these months. Bouhler, Conti, and I don't know who else was there, there were a few other doctors witnessing it for the first time. On the basis of this experiment Hitler decided that only carbon monoxide was to be used for killing the patients.

Q. Well now, before or after that time had you tried any other gases or any other means of administering euthanasia to these people?

A. No, we—and by this I mean Bouhler's organization—never used any other gas or any other means.

Q. You found the carbon monoxide quite satisfactory, so you never had to resort to any other means?

A. Yes. You can put it that way.

Q. Now, where was it that these four people were accorded the privilege of a mercy death in December, 1939 or 1940?

A. That was in the first euthanasia station in Brandenburg.

Q. And who were the subjects that were used for that experiment?

A. They were four mentally incurable persons.

Q. Do you know what institution they came from?

A. No. That I don't know.

Q. Were they men or women?

A. Men.

Q. All men. What were their ages, were they young men, middle-aged men, or elderly men; how would you classify them?

A. I really don't remember that.

Q. What can you say in regard to their nationality; do you know anything about that?

A. They must have been Germans, they could not have been any-

thing but Germans, because according to regulations only German mentally defective persons were used for euthanasia.

Q. And you say Hitler was there?

A. No. Hitler was not there, Bouhler was there.

Q. Bouhler?

A. Bouhler was there, Conti was there, and I believe Brandt.

Q. Karl Brandt?

A. Yes, Karl Brandt.

Q. Do you remember any of the other defendants who were there?

A. None of the defendants here was present except myself.

Q. Well, then you remember that you, Bouhler, Conti, and Karl Brandt were there; now do you remember any of the other gentlemen there at the time?

A. Yes. I said there were some more doctors there, but none of the defendants here.

Q. Dr. Pfannmueller, perhaps?

A. No. Dr. Pfannmueller was certainly not there. They must have been Berlin doctors.

Q. When after December of 1939 or January of 1940 was it that you again witnessed a euthanasia procedure?

A. I should say that during 1940 in all the euthanasia institutions existing at that time I personally assured myself once or twice that the euthanasia was being correctly carried out. But I think I recollect that the Hadamar Institute was only set up in 1941 and in that year I did not witness euthanasia being carried out, so that this would eliminate the Hadamar Institute.

Q. The Institute at Hadamar, I think you said there were five other stations?

A. Yes. There were six altogether.

Q. So that during the year 1940, you assured yourself that each of the five stations on perhaps one, two or perhaps more visits that the procedure insisted upon by Bouhler was being carried out in a humane manner, in a painless manner by carbon monoxide?

A. Completely imperceptible.

Q. And now who were the people—let me put it this way—the first time at Brandenburg there were four people, all men?

A. Yes.

Q. Now, can you remember on your subsequent visits in 1940 to the other euthanasia stations who the people were, men or women?

A. Both, sometimes men and sometimes women.

Q. And what can you say in regard to their nationality?

A. I can only say that they were only Germans, because I am perfectly convinced that Bouhler's regulations, which rested on an order from Hitler, namely that no foreigners were to be given euthanasia, were observed strictly by all the euthanasia institutions.

Q. Where were these stations located, Witness?

A. I don't understand what you mean, where they were?

Q. In what part of Germany or in what part of Poland, or in what part of Czechoslovakia, in what part of the Protectorate of Bohemia-Moravia, in what part of Denmark, in what part of Holland, in what part of France, and in what part of Europe were these stations located?

A. Now I understand you correctly. The first one was in Brandenburg on the Havel in the neighborhood of Berlin about 70 or 80 kilometers away. The next was the Grafeneck Institute, that was in Wuerttemberg. Another institution was Sonnenstein and that is near Pirna near Dresden. There was the Hartheim Institute which was near Linz on the Danube in Austria. Then there was the Bernburg Institute on the Saale River near Dessau. The Hadamar Institute is in Hesse.

Q. Were any of these stations located in that portion of Poland which was occupied by the Germans in military occupation?

A. No.

Q. And the six stations you have just named were all the stations known to you that existed; there were just six?

A. Those were the only ones, yes.

Q. Witness, can you approximate the population of Germany as it existed in the year of 1939 or the year of 1940? Were there some fifty or sixty million people?

A. No, roughly eighty to eighty-five million.

Q. Now by that, when you say eighty to eighty-five million, you include the entire German Reich, including Austria, the Sudetenland, and the occupied territory?

A. Austria and the Sudetenland, but not the occupied territory.

Q. And you estimate roughly there were eighty-five million people?

A. Yes.

Q. Of that eighty-five million, how many Jews would you say were living in Germany at the time who were German nationals?

A. Maybe two or three million.

Q. You are talking now about the Greater German Reich, including Austria and the Sudetenland?

A. Yes.

Q. You estimate there were between two or three million who were German nationals?

A. Roughly, yes.

Q. Now with two or three million German Jews amalgamated into the German population of eighty-five million people who were German nationals, explain, if you will, to the Tribunal why it was that the German Jews were excluded from the Euthanasia Program, if as you say it was a salutary program according to people the privilege of

a mercy death for taking them out of their misery; why was it that the German Jews were not included in that program?

A. I have already stated that. As Bouhler explained it, the blessing of euthanasia should be granted only to Germans.

Q. I understand that, but I thought you said at that time there were between two and three million Germans in Germany, German citizens who were Jews?

A. Yes. That is so.

Q. Why were they not included in the program, if the privilege of the program was going to be accorded to all Germans?

A. The reason possibly lies in the fact that the government did not want to grant this philanthropic act to the Jews.

Q. They wanted to grant this philanthropic act to all Aryan Germans, but did not want to grant it to German Jews, and they did not want to grant this philanthropic act to German soldiers of the first war, who had received mental injuries growing out of their war wounds. Is that correct?

A. As I have already said, that was a great inconsistency in this procedure and we often protested. However, it was determined by considerations of a military and psychological nature.

Q. Thank you.

* * * * * * *

Q. Witness, I think you said yesterday afternoon that these six euthanasia stations were located at Bernburg, Brandenburg, Hadamar, Hartheim, Grafeneck, and Sonnenstein, is that correct?

A. Yes. That is correct.

Q. When were the gas chambers at these euthanasia stations built?

A. When the institutions were set up as euthanasia institutions.

Q. Can you remember the approximate dates?

A. No. I cannot remember the dates. I just know the years when the institutions became euthanasia institutions—approximately. I know that Grafeneck and Brandenburg were the first institutions to become euthanasia institutions. It began at the end of 1939 at the earliest, the beginning of 1940 at the latest. Sonnenstein and Hartheim were set up in the early summer 1940. In the early summer or spring. The institution at Bernburg was established in the fall or winter of 1940, Hadamar, in the winter or spring of 1941. This is as accurate as I can give it.

Q. You said the winter or spring of 1941. Do you mean the winter of 1940 or the spring of 1941? You said the winter or spring of 1941.

A. If I say winter '41, I mean January '41, but it might have been March too, I don't know.

Q. And you think that Hadamar was the last one that was set up?

A. I am quite certain that Hadamar was the last one.

Q. Now, of what materials were these gas chambers built? Were they movable gas chambers, very much like the low-pressure chambers that Professor Dr. Ruff talked about, or were they something that was built permanently into the camp or installation?

A. No special gas chamber was built. A room suitable in the hospital was used, a room of necessity attached to the reception ward and to the room where the insane persons were kept. This room was made into a gas chamber. It was sealed, given special doors and windows, and then a few meters of gas piping were laid, or some kind of piping with holes in it. Outside this room there was a container, a compressed gas container with the necessary apparatus, that is a pressure gauge, etc.

Q. Now what department had the responsibility for constructing or building these gas chambers, what department of the Party or of the government?

A. No office of the Party. I don't understand the question.

Q. Somebody had to build these chambers. Who gave the orders and who had the responsibility of building them, was that your department?

A. I assume the orders were given by the head of the institution, but I don't know who actually did give the orders.

Q. In other words, were these chambers not built according to some specifications, plans and specifications?

A. I can't imagine that, every chamber was different. I saw several of them.

Q. Do you know what department gave the order for having the chambers built? Was that your department under Bouhler?

A. No. It was Bouhler himself.

Q. And he gave the order to the various heads of institutions to install this chamber, is that correct?

A. Yes.

Q. Now, how would the heads of each of these institutions know how to install a gas chamber unless there were certain plans and specifications given to them?

A. I never saw any such plan. I don't know of any.

Q. Would you know how to go out and build a gas chamber unless some engineer or planner had told you? Certainly I wouldn't.

A. I don't know whether I would either. Presumably he called in an engineer.

Q. That's what I'm trying to say. What engineer or group of engineers was responsible for seeing that these gas chambers were built so that they would do the job they were supposed to do?

A. There was certainly no group of engineers. I presume there was somebody at the institutions who had enough technical ability to do it. I don't know.

Q. Then, so far as you know, someone at one of these institutions would be told by Bouhler to construct a gas chamber and he would call—the head of the institution then would call on someone, you don't know whom, to go out and build the chamber? Is that correct?

A. That is how I imagine it.

Q. Well, wouldn't it make a considerable difference whether the chamber was to be constructed for euthanasia by carbon monoxide or by some other means? Wouldn't there have to be some technical information available to the head of the institution so that he could give directions to his mechanic to build the thing to do the thing it was supposed to do?

A. I must say honestly I really don't know anything about that. I can't judge.

Q. Do you know whether or not any department of the government, under Bouhler, or under Brandt, or under anybody else, was responsible for seeing that the gas apparatus was installed properly?

A. I don't know, but I don't believe so because I would probably have heard of it.

Q. How large were these gas chambers?

A. They were of different sizes. It was simply an adjoining room. I can't remember whether they were 4 x 5 meters, or 5 x 6 meters. Simply normal sized rooms, but I can't tell you the exact size. It was too long ago. I can't remember.

Q. Were they as large as this courtroom?

A. No. They were just normal rooms.

Q. Well, a man of your intelligence must have some idea about the size of these rooms. The assertion "normal size" doesn't mean anything in particular.

A. By that I mean the size of the normal room in a normal house. I didn't mean an assembly room or a cell either. I meant a room, but I can't tell you the exact size because I really don't know it. It might have been 4 x 5 meters, or 5 x 6 meters, or 3½ x 4½, but I really don't know. I didn't pay much attention to it.

Q. Have you ever visited a concentration camp or a military camp of any kind?

A. I visited a concentration camp, and I was once in a military camp as a soldier.

Q. Have you ever seen a shower room or shower bath built into a camp of that kind where the inmates of concentration camps, or where soldiers in a military barracks, can take showers?

A. Yes, I have. In my own barracks.

Q. And would you say that this euthanasia room at the various institutions was about that dimension?

A. I think it was much smaller.

Q. Well, perhaps we can get at it this way. I thought perhaps you knew something about the mechanical construction that I supposed everybody knew something about. This room of yours that you talk about, how many people would it accommodate?

A. Yesterday I said that according to my estimate it might have been twenty-five or thirty people.

Q. And that is still your estimate today? I remember yesterday that you said that, and that is still your estimate today, it could comfortably take care of twenty-five or thirty people?

A. Yes. That's my estimate.

Q. Now, the carbon monoxide gas that was used for the purpose of euthanasia, where did it come from? I know you said yesterday that it came out of tubes very much like oxygen came in, but where did the tubes come from? Do you know?

A. I don't know. They were the normal steel containers which can be seen everywhere.

Q. Do you know how they reached the camp?

A. That I don't know.

Q. Do you know whether any department of the government was responsible for furnishing the gas to the camp?

A. No. They were probably bought.

Q. You think then that perhaps the superintendent of the institution, if he wanted some carbon monoxide gas, would just walk downtown and walk into a store and buy a steel tube of it and put it under his arm and carry it on back to the camp; pay for it out of his pocket?

A. No, not out of his own pocket but through the institution. The institutions bought them, I mean.

Q. Do you know from what sources the institution bought it?

A. Yes. All the funds came from the Reich Ministry of the Interior. They were advanced by the Party treasurer.

Q. Well, now, at that time, wasn't virtually everything in Germany of a critical nature on some sort of priority? Do you understand what I mean?

A. No.

Q. Would not the diversion of this carbon monoxide in tubes to the various institutions have to be given a priority rating and approved by someone or by some department in the government and thus be made available to the hospitals? Don't you understand what I mean?

A. Yes, I understand. I have no idea, but I don't believe so. Why?

Q. What was done with the bodies of these people after mercy deaths were given?

A. When the room had been cleared of gas again, stretchers were brought in and the bodies were carried into an adjoining room. There the doctor examined them to determine whether they were dead.

Q. Then what happened to the bodies?

A. When the doctor had determined death, he freed the bodies for cremation and then they were cremated.

Q. After he had freed the bodies, had determined that they were dead, they were then cremated? Is that correct?

A. Yes.

Q. There was a crematory built for every one of these institutions?

A. Yes. Crematoriums were built in the institutions.

Q. Do you know whether or not—what department or agency, either under the government, that is, the Reich government, or under the superintendent of the various institutions, was responsible for this detail of cremation?

A. I don't understand. Bouhler ordered the cremation. Bouhler ordered, on principle, that the bodies were to be cremated after death. There was no office for that.

Q. Was there any report made to anyone of the fact that certain people, who had been selected for euthanasia had finally arrived at these institutions, had actually been accorded the privilege of mercy deaths and then had been cremated?

A. No. I know nothing about that.

Q. No records were kept at all?

A. Oh, I thought you said reports. Now you mean records?

Q. I don't care what you call it. There must have been a report or record of some kind kept of these people. Was there?

A. Yes, of course. Not only the case histories, but the personal data of the individual patients were collected at the euthanasia institution and there the death records were added and whatever else was available. In my direct examination I pointed out that there were announcements to the agencies concerned, for example, the guardianship court. All these files were sent to Tiergartenstrasse 4.

Q. They were finally sent to Tiergartenstrasse 4?

A. Yes.

Q. Isn't it true that only in that way could an accurate record or report of this program be made?

A. I didn't understand. Whether this fact created accurate records about the people, or whether records were kept?

Q. Records were kept, were they not, of this entire transaction of each individual from the time he was expertized?

A. Yes.

Q. Until finally he was cremated?

A. Yes.

Q. And those records were filed with T–4?

A. Yes. They were kept there.

Q. Now, I believe you said that these euthanasia chambers were built to resemble shower rooms?

A. Yes. That's how I remember it.

Q. And the only people that were accorded euthanasia were people who were incurably insane, I think you said?

A. Yes.

Q. These were people who, as you put it, on ethical grounds did not have the mental capacity either to consent or to resist the decision to grant them euthanasia, and that consequently as you viewed it, it was a humane procedure to accord them a mercy death; is that correct, did I understand you correctly?

A. Yes.

Q. Now, were these people, the ones whom you saw, so insane as not to understand where they were or what was going on around them?

A. I can only say that of course I am not a doctor and therefore not in a position to judge the condition of such patients, but when I was at such institutions I myself saw that the patients, in as far as they were able to walk, went into these chambers or rooms where they were told to go without any objection and sat down on the benches or lay down and were quite quiet.

I don't know to what extent they realized where they were. I do know, however, that they were not in any way worried, but perfectly calm. Bouhler had ordered that the doctors were to arrange things so that the patients would not realize what was being done to them.

Q. And that was the reason that the gas chambers were constructed to resemble shower rooms, I suppose?

A. Yes.

Q. And these people thought that they were going in to take a shower bath?

A. If any of them had any power of reasoning, they no doubt thought that.

Q. Well now, were they taken into the shower rooms with their clothes on, or were they nude?

A. No. They were nude.

Q. In every case?

A. Whenever I saw them, yes.

Q. And you said, I believe, yesterday that you witnessed perhaps some 10 to 12, or 15, or 20 occasions when groups were accorded mercy deaths?

A. No. I said that I visited each of the institutions, with the exception of Hadamar, at least once, perhaps twice.

Q. And on each occasion did you witness the according of a mercy death to a group?

A. Yes.

Q. And I believe you said yesterday that some of these groups were adults, that some groups were men, other groups were women, and that on some occasions the groups were made up of both men and women, is that correct?

A. No. Apparently I did not express myself clearly. They were either men or women, but I saw both.

Q. And you think perhaps you saw as many as 20 to 30 comfortably accommodated in the chamber?

A. Yes, quite comfortably. There was plenty of room.

* * * * * * *

CROSS-EXAMINATION

* * * * * * *

DR. HOCHWALD: You never cooperated in the program of extermination of the Jews, is that correct?

DEFENDANT BRACK: No. I personally never did.

Q. Is the name Eichmann, Obersturmbannfuehrer Adolf Eichmann, familiar to you?

A. Yes. I know the name now.

Q. You did not know him before? That is, during the war?

A. No, not to my knowledge.

Q. Did you know anything about his activities during the war from your own knowledge, not what you heard now?

A. I cannot remember ever having heard the name Eichmann before.

Q. In order to keep the record straight I would like to offer Document NO–2737. This is an excerpt from the judgment of the International Military Tribunal about the activities of Eichmann, and I would like to ask the Tribunal whether I should give an identification number to this document or whether the Tribunal will take judicial notice of the document.

PRESIDING JUDGE BEALS: While the Tribunal will take judicial notice of the document mentioned, it would be convenient to have an identification number for the purpose of identification only.

DR. HOCHWALD: So it will be Prosecution Exhibit 505 for identification; extract from the judgment of the International Military Tribunal:*

> "In the summer of 1941, however, plans were made for the 'final solution' of the Jewish question in Europe. This 'final solution' meant the extermination of the Jews, which early in 1939 Hitler had threatened would be one of the consequences of an outbreak of war, and a special section in the Gestapo under Adolf Eichmann, as head of Section B–4 of the Gestapo, was formed to carry out the policy * * *
>
> * * * * * * *
>
> " * * * Adolf Eichmann, who had been put in charge of this program by Hitler, has estimated that the policy pursued resulted in the killing of 6,000,000 Jews, of which 4,000,000 were killed in the extermination institutions."

*Trial of the Major War Criminals, vol. I, pp. 250, 252–253, Nuremberg, 1947.

Did you ever have any conferences or discussions with Eichmann concerning the extermination of the Jews and the solution of the Jewish problem?

DEFENDANT BRACK: I already said that I did not remember having heard the name Eichmann at all.

Q. I want to put to you NO-997, which is Prosecution Exhibit 506 for identification, your Honors. This is a draft of a letter from the Reich Minister for the Occupied Eastern Territories to the Reich Commissioner for the East:

"Solution of the Jewish Problem.

"Reference: Your report of 4 October 1941, concerning the solution of the Jewish problem.

"I have no objection against your suggestion for the solution of the Jewish problem. Attached please find a memorandum concerning the conversation between my expert consultant, Amtsgerichtsrat Dr. Wetzel, Oberdienstleiter Brack of the Chancellery of the Fuehrer, and Sturmbannfuehrer Eichmann, expert consultant to the Reich Security Main Office. Please note the details of the matter from this memo. Will you please take the necessary steps at the Reich Security Main Office and with Oberdienstleiter Brack from the Chancellery of the Fuehrer via your Higher SS and Police Leader. Please keep me informed.

[Handwritten] F. d. H. M.
[For the Minister]

"2d Copy

"(*a*) Reich Security Main Office

"(*b*) Chancellery of the Fuehrer
Attention: Oberdienstleiter Brack,
Copy of (1), including enclosure for information."

Did you receive a copy of this letter?

A. May I first ask you what the date of this letter is?

Q. Only 1941 is mentioned here. But that is the date I told you. Did you receive a copy of this letter, Herr Brack?

A. I did not receive a copy of it nor did I even see a copy of that letter, nor do I know this Amtsgerichtsrat Wetzel.

Q. Did you have a conference with Eichmann on this problem, on the solution of the Jewish question?

A. I already said I cannot even remember the name Eichmann, nor can I remember the name Wetzel.

Q. Do you know anything about the matters discussed at this conference concerning the solution of the Jewish problem?

A. No. I know nothing.

Q. You have no idea. You never made any suggestions as to what kind of treatment or what kind of gas chambers should be used for the solution of the Jewish problem? You never did that?

A. I can remember nothing in this connection.

Q. You were questioned by the Tribunal last Friday as to whether plans were made for the construction of the gas chambers in the euthanasia stations or whether an engineer or specialist was ordered to assist the directors of the stations in setting up such gas chambers, were you not?

A. Yes.

Q. You were not able to give any information to the Tribunal on that fact, were you?

A. No. I said I didn't concern myself with these matters.

Q. Is the name Kallmeyer, K-a-l-l-m-e-y-e-r, familiar to you?

A. Yes. But I can't remember in which connection.

Q. His wife executed an affidavit for you here. (*Brack 39*, *Brack Ex. 23.*) Do you remember him now?

A. Yes. Yes, I remember him now.

Q. Was Kallmeyer the engineer, or was he a chemist, who made these plans for gas chambers and assisted the directors in euthanasia stations in setting up these gas chambers?

A. No. Kallmeyer had to check that the gas chambers were operating properly, but I don't believe he made any plans for that purpose.

Q. Kallmeyer was the man who supervised these gas chambers, was he not?

A. I believe so, yes, but not for long, only for a short time.

Q. All right. And does the name Kallmeyer refresh your memory as to eventual plans you made together with Eichmann about the solution of the Jewish problem, Herr Brack?

A. No.

Q. I want to put to you Document NO–365, which will be Prosecution Exhibit 507 for identification, your Honors. This is a draft from the Reich Ministry for the Occupied Territories dated Berlin, 25 October 1941.

"Referent AGR. Dr. Wetzel

"Re: Solution of the Jewish Question

"1. To the Reich Commissioner for the East

"Re: Your Report of 4 October 1941 Concerning Solution of the Jewish question

"Referring to my letter of 18 October 1941, you are informed that Oberdienstleiter Brack of the Chancellery of the Fuehrer has declared himself ready to collaborate in the manufacture of the necessary shelters, as well as the gassing apparatus. At the present time the apparatus in question are not on hand in the Reich in sufficient number; they will first have to be manufactured. Since in Brack's opinion the manufacture of the apparatus in the Reich will cause more difficulty than if manufactured on the spot, Brack deems it most expedient to send his people direct to Riga, especially his

chemist Dr. Kallmeyer, who will have everything further done there. Oberdienstleiter Brack points out that the process in question is not without danger, so that special protective measures are necessary. Under these circumstances I beg you to turn to Oberdienstleiter Brack, in the Chancellery of the Fuehrer, through your Higher SS and Police Leader and to request the dispatch of the chemist Dr. Kallmeyer as well as of further aides. I draw attention to the fact that Sturmbannfuehrer Eichmann, the referent for Jewish questions in the RSHA, is in agreement with this process. On information from Sturmbannfuehrer Eichmann, camps for Jews are to be set up in Riga and Minsk to which Jews from the old Reich territory may possibly be sent. At the present time, Jews being deported from the old Reich are to be sent to Litzmannstadt, [Lodz] but also to other camps, to be later used as labor in the East so far as they are able to work.

"As affairs now stand, there are no objections against doing away with those Jews who are unable to work with the Brack remedy. In this way occurrences would no longer be possible such as those which, according to a report presently before me, took place at the shooting of Jews in Vilna and which, considering that the shootings were public, were hardly excusable. Those able to work, on the other hand, will be transported to the East for labor service. It is self-understood that among the Jews capable of work, men and women are to be kept separate.

"I beg you to advise me regarding your further steps."

Herr Brack, are you still going to maintain what you said here in direct examination, namely, that you tried to protect the Jews and to save the Jews from their terrible fate and that you were never a champion of the extermination program?

A. I should even like to maintain that misuse, terrible misuse, was made of my name. I see from this letter and from the date of this letter that all these negotiations were carried out at a time when I was far away from Berlin, when I was on sick leave. If I have the possibility I hope I shall be able to bring witnesses who will testify to that effect. I must frankly admit that at this period something was going on which entirely contradicted my opinion, but this could only have been done under misuse of my name and my agency. I was not willing to participate in these things.

Q. Can you tell me, Herr Brack, where Riga and Minsk are located?

A. Riga is on the Baltic in Latvia, and Minsk is in Russia.

Q. These two places were outside Germany, were they not?

A. Yes.

Q. Prosecution has no further questions at this time.

EXTRACT FROM THE TESTIMONY OF PROSECUTION WITNESS WALTER E. SCHMIDT*

CROSS-EXAMINATION

* * * * * * *

DR. SERVATIUS: What kind of directives were given at that time about the execution of the Euthanasia Program?

WITNESS SCHMIDT: Well, the same directives as were finally carried out—to move the invalids from lunatic asylum to the euthanasia institution. I personally received subsequently the orders from the Reich committee which had already been discussed during that meeting.

Q. Did you at that time consider that an order for murder?

A. In no way at all. The jurists in Berlin told us that this was a legal matter, that it was a Hitler decree or a law which had been duly approved; also that the jurists had discussed whether Hitler was authorized to issue such a decree and decided in the affirmative, and we were told that this was a matter which was a quite legal—

Q. Witness, a little slower.

A. That it was a legal task of the State which had already been planned in 1932 and which was also being planned in other countries and that we would not incriminate ourselves in any way, on the contrary, a sabotage of this order would be a criminal offense. The question of secrecy was also discussed in detail and it was stated that this was a kind of law now; that the patients were not to have knowledge of such a measure beforehand because otherwise they would be excited, and that was probably the main reason why this law could not be published. In addition at that time we were at war and those kinds of measures should be kept secret in the interior.

Q. Who were the people to be concerned by the Euthanasia Program?

A. The incurably sick. However, it was not quite clear to me where the limit was to be drawn. For me personally, such a measure could only be considered in the cases of persons who were dying anyhow.

Q. Was there any mention made at that time of "useless eaters" and other economic points of view?

A. I never actually heard the words "useless eaters" at all during the war.

Q. Was it mentioned at the time that the institution had to be kept free for other purposes, and that that was the reason?

A. The reason for this measure was only touched upon briefly. We were told that these were tasks of the state which had become urgent because of the war and, yes, of a eugenic nature.

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*Complete testimony is recorded in mimeographed transcript, 16 Jan 1947, pp. 1816–1863.

Q. How about the children?

A. At the time there was always talk about the last medical aid.

Q. Well, if I understood you correctly, the decisive viewpoint was the medical one?

A. Yes. I only observed it from the medical point of view.

Q. Now was the procedure actually carried out from this point of view? Or didn't this so-called program actually go far beyond its limits in its execution?

A. The limits of the program were certainly exceeded to a great extent. I personally did not see it myself, but on the basis of the reports I received, I must say that excesses certainly took place.

Q. Witness, how was it in your institution with reference to excesses?

A. In my institution procedure was taken only on the basis authorized by law. We also had a therapy station. Of course, I must say, it was not very nice to watch these transports.

Q. Now, you said that later on Eastern workers were picked up?

A. Yes.

Q. Wasn't that in excess of the original order which you received?

A. I cannot say that. I don't know.

Q. Do you know where the order came from to transport these people away?

A. From the Ministry of the Interior. It was given to us by the superior office of the Ministry of the Interior.

Q. You mean the Reich Minister of the Interior?

A. Yes.

Q. You further mentioned that the action was concluded in August 1941, that it was stopped. Do you know the reason for this?

A. Yes. I do not know the official reason, but I heard of it unofficially. I heard that Herr von Galen protested, and that was probably why the whole procedure was stopped. I emphasize that I don't know for certain, but anyway for me it was a reason.

Q. Well was this procedure actually stopped everywhere in the end?

A. No. When Hadamar was closed I immediately assumed that some other institution would continue this task or that the procedure would be followed up in some other way. That is also what Mr. von Hegener said when he was there.

Q. You said that these Eastern workers were collected by the same busses as before?

A. Yes. The busses were the same. They were big black busses, and we knew the drivers because they came frequently.

Q. To whom did the busses belong? To the Gauleiter's office?

A. These busses were owned by the transport company. The Sick Transport Company in Berlin. Some of the personnel remained in Hadamar.

Q. Was there no medical personnel?

A. No. There was no medical personnel.

Q. You said something about the excesses with reference to the program.

A. One must differentiate between how things were until the action was stopped in 1941, and how it was later on.

Q. What excesses do you know of before the action was stopped in 1941?

A. You mean individually?

Q. Yes, in your institution.

A. There were none at all in our institution. The people were transported away.

Q. You acted according to directives?

A. Yes. I personally was not in charge of this action. My chief was in charge. But as far as I know no excesses were committed by the nursing personnel. Of course, some of the obstinate patients refused to enter the busses. That is natural.

Q. Were these all extreme cases which were sent for under this Euthanasia Program?

A. Of course, it depends where the limit is drawn. One can maintain the view that a large part of the patients, perhaps, might have undergone a certain change through modern shock treatment or some other modern method of treatment. But with those cases there in which the mental disease was in a very advanced stage, in my opinion, most of the patients no longer had any chance to enjoy life.

EXTRACTS FROM THE TESTIMONY OF DEFENDANT KARL BRANDT*

DIRECT EXAMINATION

* * * * * * *

DR. SERVATIUS: Witness, you are charged with participation in the Euthanasia Program. I shall show you the decree of 1 December [1 September] 1939. (*NO–630, Pros. Ex. 330.*) Please describe how this decree came about.

DEFENDANT KARL BRANDT: After the end of the Polish campaign in about October [sic], the Fuehrer was at Obersalzberg. I was called to him for some reason which I can no longer remember and he told me that because of a document which he had received from Reichsleiter Bouhler, he wanted to bring about a definite solution in the euthanasia question. He gave me general directives on how he imagined it, and the fundamentals were that insane persons who were in such a condition that they could no longer take any conscious part in life were to be given relief through death. General instructions followed about petitions which he himself had received, and he told me to contact Bouhler

*Complete testimony is recorded in mimeographed transcript, 3, 4, 5, 6, 7 Feb 1947, pp. 2301–2661.

himself about the matter. I did so by telephone on the same day, and I then informed Hitler about my conversation with Bouhler. Thereupon he drafted a formulation of this decree, not in the form we have here, but in a similar form, and certain changes were made. My request was that a precaution be introduced because of the medical participation, and I used an expression for this which was familiar to me from expert opinions. It stated that euthanasia could be carried out on persons and then comes the formulation "who are incurable with a probability bordering on certainty." Since this formulation was strange to him, "on the most careful diagnosis of their condition of sickness" was added. Therefore, when this decree was signed about the end of October, the text read as follows: "Reichsleiter Bouhler and Dr. Brandt are charged with the responsibility of extending the authority of certain doctors, to be designated by name in such a manner that persons who, according to human judgment, are incurably sick, can, on the most careful diagnosis of their condition of sickness, be accorded a mercy death."

Q. Did you talk to Bouhler?

A. At first I only talked to Bouhler on the telephone and even after the decree was signed I did not talk to him immediately but sent the signed decree to him in Berlin.

Q. And what was Hitler's idea of euthanasia? What did he understand by it?

A. The decisive thing for him was also expressed here in the decree, namely, that incurably sick persons—actually it should have read insane persons—other persons were absolute exceptions—could be accorded a mercy death. That is, therefore, a measure dictated by purely humane considerations, and nothing else could be thought under any circumstances, and nothing else was ever said to me.

Q. You said that the Fuehrer gave you the assignment on the basis of a telephone call from Bouhler? The call from Bouhler could not have been the only reason. There must have been others.

A. It was not a telephone call. There was some kind of a documentary incident which was decisive. It may be that the Fuehrer already had these documents or that Bouhler spoke to him again about them. I don't know exactly. But this was not the cause of the Euthanasia Program being started. In his book, "Mein Kampf," Hitler had already referred to it in certain chapters, and the law for the "prevention of the birth of children suffering from hereditary diseases" is a proof that Hitler had definitely concerned himself with such problems earlier. The law for the "prevention of the birth of children suffering from hereditary diseases" is actually a law which followed the events. It certainly arose because children with congenital diseases existed. Proof that this is a problem which affects the whole

world lies in the fact that similar laws with similar formulation and contents have been passed in other countries.

Dr. Gerhardt Wagner, who was Dr. Conti's predecessor, discussed these questions at the Party rally in Nuernberg. I did not talk to Gerhardt Wagner at that time and had nothing to do with these things. However, I hear now that in 1935 Gerhardt Wagner had a film made presenting the problem of the insane. Apparently the film was made in asylums with insane persons.

Q. Witness, did not the requests received by Bouhler and the Fuehrer play a certain part?

A. Requests to this effect were certainly constantly received by Bouhler, and the Chancellery of the Fuehrer always received such things. I only know that these requests were afterwards passed on to the Reich Ministry of the Interior. I myself know of one request which was sent to the Fuehrer himself through his adjutant's office in the spring of 1939. The father of a deformed child approached the Fuehrer and asked that this child or this creature should be killed. Hitler turned this matter over to me and told me to go to Leipzig immediately—it was in Leipzig—to confirm the fact on the spot. It was a child who was born blind, an idiot—at lease it semed to be an idiot—and it lacked one leg and part of one arm.

Q. Witness, you were speaking about the Leipzig affair, about this deformed child. What did Hitler order you to do?

A. He ordered me to talk to the physicians who were looking after the child to find out whether the statements of the father were true. If they were correct, then I was to inform the physicians in his name that they could carry out euthanasia.

The important thing was that the parents should not feel themselves incriminated at some later date as a result of this euthanasia—that the parents should not have the impression that they themselves were responsible for the death of this child. I was further ordered to state that if these physicians should become involved in some legal proceedings because of this measure, these proceedings would be quashed by order of Hitler. Martin Bormann was ordered at the time to inform Guertner, the Minister of Justice, accordingly about this case.

Q. What did the doctors who were involved say?

A. The doctors were of the opinion that there was no justification for keeping such a child alive. It was pointed out that in maternity wards under certain circumstances it is quite natural for the doctors themselves to perform euthanasia in such a case without anything further being said about it. No precise instructions were given in that respect.

Q. Was this problem of deformities dealt with anywhere else?

A. The problem of deformities was probably discussed before this Leipzig case. However, in the course of the summer it was worked

on in a more concrete form, first of all by the Ministry of the Interior. In this case, Dr. Linden participated as a special consultant, probably as representative of Dr. Conti—who became Reich Minister for Health after the death of his predecessor Wagner, and then afterwards State Secretary in the Ministry of the Interior.

Q. Who was Dr. Linden?

A. Dr. Linden was Ministerialrat in the Reich Ministry of the Interior. He was a doctor and was the competent official who was later in charge of this office for the mental institutions, perhaps he already was at the time, I don't know exactly. Later on, during the treatment of the euthanasia question he was appointed exponent of all these matters.

Q. What was the procedure at the time? Was Hitler informed about all these matters?

A. In August 1944 he ordered me to participate in a conference which took place between Dr. Linden, Mr. Bouhler, and some other people. The question of the registration of these deformities was discussed, and also how to set about this registration. Dr. Linden, on behalf of the Ministry of the Interior, submitted pertinent documents, questionnaires, etc., which were then discussed once more in detail. It was the preparatory work for the Reich Committee for the Registration of Serious Hereditary and Constitutional Diseases, which was subsequently established.

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CROSS-EXAMINATION

* * * * * * *

MR. MCHANEY: Now, Witness, this is the first time that I have ever heard mentioned in connection with the Euthanasia Program that anybody's consent had to be obtained, and I take it that it is a rather fundamental matter. Are you ready to swear to this Tribunal that the Reich committee never performed euthanasia on children without obtaining the consent of the parents of the child?

DEFENDANT KARL BRANDT: I said yesterday that the approval of the parents was necessary for the euthanasia of children, and I am of the opinion that such approval was actually given.

Q. Was the approval written approval or verbal approval?

A. That I don't know. I cannot say.

Q. Have you ever seen any written approval?

A. I believe that during the first period when this authorization was submitted for signature to Bouhler and to me, all the other papers were together with it, such as approvals, etc. It may be that during the later period we were only concerned with the authorization papers and that the other papers were left with the Reich committee. However, I did see such letters of approval but I don't believe that they

were in writing in every case. I think they were partly given orally through the local physician or some other agency which dealt with the case.

Q. Well, Witness, let's look at this letter again. I find some difficulty in reconciling your testimony about the necessity of consent by the relatives of the child with what's written here in this letter. For example, the third line reads: "It seems that the relatives of Anna Gasse tried to obtain her release by every possible means." If, Witness, it was necessary to obtain consent, why was there any question about releasing Anna Gasse?

A. I cannot say that either. According to my opinion, the child could not be kept in an institution if the parents wanted it at home.

Q. And the last sentence which reads, "If from a medical point of view such release is warranted, one could perhaps take into consideration whether one should not perhaps comply with such request in the interest of the good reputation of the institution." Don't you find that language just a bit restrained, Witness?

A. Yes. I think it is very restrained.

E. Selections From Photographic Evidence of the Prosecution

INMATES OF THE DACHAU CONCENTRATION CAMP IN DIFFERENT STAGES OF SIMULATED ALTITUDE IN THE LOW PRESSURE CHAMBER

DOCUMENT NO-610, PROSECUTION EXHIBIT 41

DOCUMENT NO-610, PROSECUTION EXHIBIT 41

POST-MORTEM DISSECTION OF HIGH-ALTITUDE EXPERIMENTAL SUBJECTS SHOWING AIR BUBBLES IN BLOOD VESSELS IN SUBARACHNOID SPACE OF BRAIN AND UNDER PLEURA OF ANTERIOR CHEST WALL

DOCUMENT NO-610, PROSECUTION EXHIBIT 41

EXPOSURES OF THE WITNESS MARIA KUSMIERCZUK WHO UNDERWENT SULFANILAMIDE AND BONE EXPERIMENTS WHILE AN INMATE OF THE RAVENSBRUECK CONCENTRATION CAMP

DOCUMENT NO-1080 A, PROSECUTION EXHIBIT 219 A

EXPOSURES OF THE WITNESS MARIA KUSMIERCZUK WHO UNDERWENT SULFANILAMIDE AND BONE EXPERIMENTS WHILE AN INMATE OF THE RAVENSBRUECK CONCENTRATION CAMP—Continued

DOCUMENT NO–1080 E
PROSECUTION EXHIBIT 219 E

DOCUMENT NO–1080 F
PROSECUTION EXHIBIT 219 F

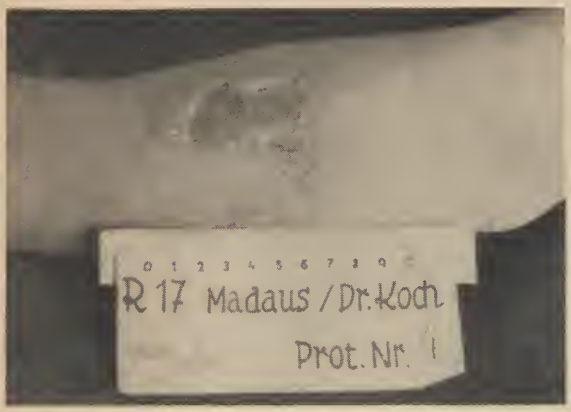
EXPOSURES OF THE WITNESS JADWIGA DZIDO WHO UNDERWENT SULFANILAMIDE AND BONE EXPERIMENTS WHILE AN INMATE OF THE RAVENSBRUECK CONCENTRATION CAMP

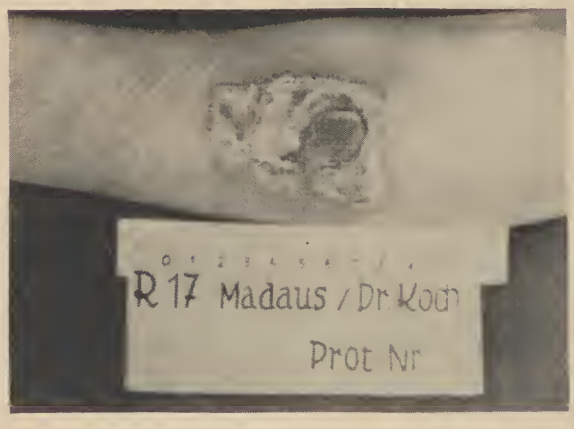
DOCUMENT NO–1082 A
PROSECUTION EXHIBIT 214 A

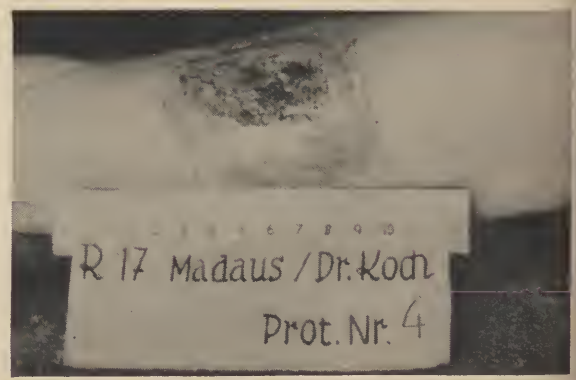
DOCUMENT NO–1082 C
PROSECUTION EXHIBIT 214 C

PHOSPHORUS BURNS ARTIFICIALLY INFLICTED ON INMATES OF THE BUCHENWALD CONCENTRATION CAMP

DOCUMENT NO-579, PROSECUTION EXHIBIT 288







TANK CONTAINING FORMALDEHYDE FOR THE PRESERVATION OF CORPSES

DOCUMENT NO-807, PROSECUTION EXHIBIT 185

CORPSES ASSEMBLED IN TANKS PRIOR TO DISSECTION

DOCUMENT NO-807, PROSECUTION EXHIBIT 185

CORPSES ASSEMBLED IN TANKS PRIOR TO DISSECTION—
Continued

DOCUMENT NO–807, PROSECUTION EXHIBIT 185

CORPSE SHOWING INCISIONS IN PREPARATION FOR DISSECTION

DOCUMENT NO-807, PROSECUTION EXHIBIT 185

VIII. EVIDENCE AND ARGUMENTS ON IMPORTANT ASPECTS OF THE CASE

A. Applicability of Control Council Law No. 10 to Offenses Against Germans During the War

a. Introduction

Under count III of the indictment, "Crimes against Humanity", the prosecution alleged that the defendants had engaged in medical experiments "*upon German civilians* and nationals of other countries" and that the defendants had participated in executing "the so-called 'euthanasia program' of the German Reich, in the course of which the defendants herein murdered hundreds of thousands of human beings, *including German civilians*, as well as civilians of other nations". [Emphasis added.] Insofar as these offenses involved German nationals, the defense argued that international law was not applicable. The defense argued that under the Charter annexed to the London Agreement, crimes against humanity within the meaning of the Charter do not exist unless offenses are committed "in the execution of, or in connection with, any crime within the jurisdiction of the Tribunal". Although the analogous provision of Control Council Law No. 10 does not include the words of limitation "in the execution of, or in connection with any crime within the jurisdiction of the Tribunal", the defense argued that Control Council Law No. 10 was only "an implementation law" of the London Agreement and Charter, and hence could not increase the scope of the offenses defined by the London Charter. Pointing to the section of the judgment of the International Military Tribunal entitled "The law relating to war crimes and crimes against humanity",[1] the defense noted that the IMT stated: "to constitute crimes against humanity, the acts relied on before the outbreak of war must have been in execution of, or in connection with, any crime within the jurisdiction of the Tribunal",[2] that is, crimes against peace or war crimes. Although the indictment in the Medical Case did not allege that crimes were committed against German nationals before the outbreak of the war on 1 September 1939, the defense further argued that any offenses against German nationals

[1] Trial of the Major War Criminals, vol. I, pp. 253–255, Nuremberg, 1947.
[2] Ibid., p. 254.

committed after 1939 had not been shown to be "in execution of, or in connection with" crimes against peace and war crimes and hence were not cognizable as crimes within the jurisdiction of the Tribunal.

Extracts from the closing statement of the prosecution appear below on pages 910 to 915. A summation of the evidence on this question by the defense has been taken from the closing brief for defendant Karl Brandt. It appears below on pages 915 to 925.

b. Selection from the Argumentation of the Prosecution

EXTRACTS FROM THE CLOSING STATEMENT OF THE PROSECUTION [1]

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The Law of the Case

Before proceeding to outline the prosecution's case, it may perhaps be desirable to anticipate several legal questions which will undoubtedly be raised with respect to war crimes and crimes against humanity, as defined in Article II of Control Council Law No. 10. Law No. 10 is, of course, the law of this case and its terms are conclusive upon every party to this proceeding. This Tribunal is, we respectfully submit, bound by the definitions in Law No. 10, just as the International Military Tribunal was bound by the definitions in the London Charter. It was stated in the IMT judgment that: [2]

> "The jurisdiction of the Tribunal is defined in the Agreement and Charter, and the crimes coming within the jurisdiction of the Tribunal, for which there shall be individual responsibility, are set out in Article 6. The law of the Charter is decisive and binding upon the Tribunal * * *."

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In outlining briefly the prosecution's conception of some of the legal principles underlying war crimes and crimes against humanity, I shall, with the Tribunal's permission, adopt some of the language from the opening statement of the prosecution in the case against Friedrich Flick, et al., now pending before Tribunal IV. [See Vol. VI.] General Taylor there said—

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> "Law No. 10 is * * * a legislative enactment by the Control Council and is therefore part of the law of and within Germany. One of the infirmities of dictatorship is that, when it suffers irretrievable and final military disaster, it usually crumbles into nothing

[1] Closing statement is recorded in mimeographed transcript, 14 July 1947, pp. 10718–10796.

[2] Trial of the Major War Criminals, vol. I, p. 218, Nuremberg, 1947.

and leaves the victims of its tyranny leaderless amidst political chaos. The Third Reich had ruthlessly hunted down every man and woman in Germany who sought to express political ideas or develop political leadership outside of the bestial ideology of nazism. When the Third Reich collapsed, Germany tumbled into a political vacuum. The declaration by the Allied Powers of 5 June 1945 announced the 'assumption of supreme authority' in Germany 'for the maintenance of order' and 'for the administration of the country', and recited that—

> 'There is no central government or authority in Germany capable of accepting responsibility for the maintenance of order, the administration of the country, and compliance with the requirements of the victorious powers.'

"Following this declaration, the Control Council was constituted as the repository of centralized authority in Germany. Law No. 10 is an enactment of that body and is the law of Germany, although its substantive provisions derive from and embody the law of nations. The Nuernberg Military Tribunals are established under the authority of Law No. 10,[1] and they render judgment not only under international law as declared in Law No. 10, but under the law of Germany as enacted in Law No. 10. The Tribunals, in short, enforce both international law and German law, and in interpreting and applying Law No. 10, they must view Law No. 10 not only as a declaration of international law, but as an enactment of the occupying powers for the governance of and administration of justice in Germany. The enactment of Law No. 10 was an exercise of legislative power by the four countries to which the Third Reich surrendered, and, as was held by the International Military Tribunal:[2]

> ' * * * the undoubted right of these countries to legislate for the occupied territories has been recognized by the civilized world.' "

War crimes are defined in Law No. 10 as atrocities or offenses in violation of the laws or customs of war. This definition is based primarily upon the Hague Convention of 1907 and the Geneva Convention of 1929, which declare the law of nations at those times with respect to land warfare, the treatment of prisoners of war, the rights and duties of a belligerent power when occupying territory of a hostile state, and other matters. The laws and customs of war apply between belligerents, but not domestically or among allies. Crimes by German nationals against other German nationals are not war crimes, nor are acts by German nationals against Hungarians or Romanians. The war

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[1] Control Council Law No. 10, Article III, par. 1(d) and 2, Military Government Ordinance No. 7, Article II.

[2] Trial of the Major War Criminals, vol. I, p. 218, Nuremberg, 1947.

crimes charged in this indictment all occurred after 1 September 1939, and it is therefore unnecessary to consider the somewhat narrow limitation of the scope of war crimes by the International Military Tribunal to acts committed after the outbreak of war. One might argue that the occupations of Austria and the Sudetenland in 1938, and of Bohemia and Moravia in March 1939, were sufficiently similar to a state of belligerency to bring the laws of war into effect, but such questions are academic for purposes of this case.

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In connection with the charge of crimes against humanity, it is also anticipated that an argument will be made by the defense to the effect that crimes committed by German nationals against other German nationals cannot constitute crimes against humanity as defined by Article II of Control Council Law No. 10 and hence are not within the jurisdiction of this Tribunal. The evidence of the prosecution has proved that in substantially all of the experiments prisoners of war or civilians from German-occupied territories were used as subjects. This proof stands uncontradicted save by general statements of the defendants that they were told by Himmler or some unidentified person that the experimental subjects were all German criminals or that the subjects all spoke fluent German. Thus, for the most part, the acts here in issue constitute war crimes and hence, at the same time, crimes against humanity. Certainly there has been no proof whatever that an order was ever issued restricting the experimental subjects to German criminals as distinguished from non-German nationals. If, in this or that minor instance, the proof has not disclosed the precise nationality of the unfortunate victims or has even shown them to be Germans, we may rest assured that it was merely a chance occurrence.

Be that as it may, the prosecution does not wish to ignore a challenge to the jurisdiction of the Tribunal even though it is of minor importance to this case. One thing should be made clear at the outset: We are not here concerned with any question as to jurisdiction over crimes committed before 1 September 1939, whether against German nationals or otherwise. That subject has been mooted and is in issue in another case now on trial, but the crimes in this case all occurred after the war began.

Moreover, we are not concerned with the question whether crimes against humanity must have been committed "in execution of or in connection with any crimes within the jurisdiction of the Tribunal." The International Military Tribunal construed its Charter as requiring that crimes against humanity be committed in execution of, or in connection with, the crime of aggressive war. Whatever the merit of that holding, the language of the Charter of the International Military Tribunal which led to it is not included in the definition of

crimes against humanity in Control Council Law No. 10. There can be no doubt that crimes against humanity as defined in Law No. 10 stand on an independent footing and constitute crimes *per se*. In any event, the crimes with which this case is concerned were in fact all "committed in execution of, or in connection with, the aggressive war." This is true not only of the medical experiments, but also of the Euthanasia Program, pursuant to which a large number of non-German nationals were killed. The judgment of the International Military Tribunal expressly so holds.[1]

Thus, it is clear that the only issue which is raised in this case as to crimes against humanity is whether the Tribunal has jurisdiction over crimes committed by Germans against Germans. Does the definition of crimes against humanity in Control Council Law No. 10 comprehend crimes by Germans against Germans of the type with which this case is concerned? The provisions of Law No. 10 are binding upon the Tribunal as the law to be applied to the case.[2] The provisions of Section 1(c) of Article II are clear and unambiguous. Crimes against humanity are there defined as—

> "Atrocities and offenses, including but not limited to murder, extermination, enslavement, deportation, imprisonment, torture, rape, or other inhumane acts committed against any *civilian population*, or persecutions on political, racial, or religious grounds whether or not in violation of the domestic laws of the country where perpetrated." [Emphasis supplied.]

The words "any civilian population" cannot possibly be construed to exclude German civilians. If Germans are deemed to be excluded, there is little or nothing left to give purpose to the concept of crimes against humanity. War crimes include all acts listed in the definition of crimes against humanity when committed against prisoners of war and the civilian population of occupied territory. The only remaining significant groups are Germans and nationals of the satellite countries, such as Hungary or Romania. It is one of the very purposes of the concept of crimes against humanity, not only as set forth in Law No. 10 but also as long recognized by international law, to reach the systematic commission of atrocities and offenses by a state against its own people. The concluding phrase of the definition of crimes against humanity, *which is in the alternative*, makes it quite clear that crimes by Germans against Germans are within the jurisdiction of this Tribunal. It reads "or persecutions on political, racial, or religious grounds *whether or not in violation of the domestic laws of the country where perpetrated.*" This reference to "domestic laws" can only mean discriminatory and oppressive legislation directed against a

[1] Ibid., pp. 231, 247, 252, 254, 301.
[2] Ibid., pp. 174, 253.

state's own people, as for example, the Nuernberg Laws against German Jews. [Emphasis supplied.]

The matter is put quite beyond doubt by Article III of Law No. 10 which authorizes each of the occupying powers to arrest persons suspected of having committed crimes defined in Law No. 10, and to bring them to trial "before an appropriate tribunal." Paragraph 1(d) of Article III further provides that—

> "Such Tribunal may, in the case of crimes committed by persons of German citizenship or nationality against other persons of German citizenship or nationality, or stateless persons, be a German court, if authorized by the occupying authorities."

This constitutes an explicit recognition that acts committed by Germans against other Germans are punishable as crimes under Law No. 10 according to the definitions contained therein in the discretion of the occupying power. This has particular reference to crimes against humanity, since the application of crimes against peace and war crimes, while possible, is almost entirely theoretical. If the occupying power fails to authorize German courts to try crimes committed by Germans against other Germans (and in the American zone of occupation no such authorization has been given), then these cases are tried only before non-German tribunals, such as these Military Tribunals.

What would be the effect of a holding that crimes by Germans against Germans can under no circumstances be within the jurisdiction of the Tribunal? Is this Tribunal to ignore the proof that tens of thousands of Germans were exterminated pursuant to a secret decree, because a group of criminals in control of a police state thought them "useless eaters" and an unnecessary burden, or that German prisoners were murdered and mistreated by thousands in concentration camps, in part by medical experimentation? Military Tribunal II in the Milch case held that crimes against nationals of Hungary and Romania were crimes against humanity. There is certainly no reason in saying that there is jurisdiction over crimes by Germans against Hungarians but not against Germans.

The judgment of the International Military Tribunal shows a clear recognition of its jurisdiction over crimes by Germans against Germans. After reviewing a large number of inhumane acts in connection with war crimes and crimes against humanity, the Tribunal concluded by saying that—

> "* * * from the beginning of the war in 1939 war crimes were committed on a vast scale, which were also crimes against humanity; and insofar as the inhumane acts charged in the indictment, and committed after the beginning of the war, did not constitute war crimes, they were all committed in execution of, or in connection

with the aggressive war, and therefore constituted crimes against humanity." [1]

Since war crimes are necessarily also crimes against humanity, the broader definition of the latter can only refer to crimes not covered by the former, namely, crimes against Germans and nationals of countries other than those occupied by Germany. Moreover, the prosecution in that case maintained that the inhumane treatment of Jews and political opponents *in Germany* before the war constituted crimes against humanity. The Tribunal said in this connection—

"With regard to crimes against humanity there is no doubt whatever that political opponents were murdered in Germany before the war, and that many of them were kept in concentration camps in circumstances of great horror and cruelty. The policy of terror was certainly carried out on a vast scale, and in many cases was organized and systematic. The policy of persecution, repression, and murder of civilians in Germany before the war of 1939, who were likely to be hostile to the government, was most ruthlessly carried out. The persecution of Jews during the same period is established beyond all doubt." [2]

The Tribunal was there speaking exclusively of crimes by Germans against Germans. It held that such acts were not crimes against humanity, as defined by the Charter, not because they were crimes against Germans, but because they were not committed in execution of, or in connection with, aggressive war. Indeed, the Tribunal went on to hold that the very same acts committed after the war began were crimes against humanity. No distinction was drawn between the murder of German Jews and Polish or Russian Jews. And, moreover, no distinction was drawn between criminal medical experimentation on German and non-German concentration camp inmates or the murder of German and non-German civilians under the Euthanasia Program. The Tribunal held them all to be war crimes and/or crimes against humanity.

c. Selection from the Argumentation of the Defense

EXTRACTS FROM THE CLOSING BRIEF FOR DEFENDANT KARL BRANDT

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The Punishable Crime Against Humanity

The criminality of the crime against humanity is based on Law No. 10 of the Control Council for Germany. Article II of this law states—

"1. Each of the following acts is recognized as a crime:

* * * * * * *

[1] Ibid., pp. 254, 255.
[2] Ibid.

c. Crime against humanity * * *."

The concept of the crime against humanity has not been established and it is questionable whether crimes against humanity according to Law No. 10 also refer to such acts as have been committed on German nationals by German nationals. The decision of this question is of particular significance since the medical experiments with which the defendants are charged and the mercy killings executed were, in the first place, carried out on German nationals.

The question here is not to establish whether such acts are against humanity but whether they are crimes against humanity punishable according to Law No. 10 which were committed knowingly and willfully. If measures taken against German nationals do not come under the law, the evidence of the prosecution to be examined is restricted mainly to those cases in which certain foreigners were affected, and in addition, evidence must be produced proving that the defendant was aware of the fact that foreigners too had actually been involved by these measures.

It is to be understood from Law No. 10 that it is merely an *implementation law* to the London Agreement of 8 August 1945 and the statute belonging to it. This has been expressly stressed in the introduction, and beyond that the London Statute and the Moscow Declaration of 30 October 1943 have been declared inseparable components of the law according to Article I.

The legally pre-eminent London Statute therefore is decisive for the interpretation of the substantive law. Article 6(c) of this statute provides that crimes against humanity can be considered punishable only if they were committed "in execution of or in connection with any crime within the jurisdiction of the Tribunal * * *". This jurisdiction, however, extends only to crimes against peace and to war crimes. The punishable crime against humanity, therefore, is restricted to the latter. The prosecution, however, has only recently championed a different opinion. In Case 5 before Tribunal IV, the case against Flick and others,* the prosecution declared in its opening statement on 19 April 1947 that the clause: "in connection with a crime within the jurisdiction of the tribunal" has a different meaning from what it expresses. The clause is to signify that the Tribunal is not to deal with individual crimes but only with such crimes as have been committed on *a large scale* and are therefore within the jurisdiction of the trial.

This meaning of the clause was not apparent to the International Military Tribunal, the prosecutors of the signatory powers at that time, nor to those who later commented on the verdict, and I do not

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*United States *vs.* Friedrich Flick, et al. See Vol. VI.

believe that one can agree with the newly established interpretation of the prosecution. The decision of the *International Military Tribunal* is authoritative for the interpretation since it was pronounced by the judges of the signatory powers who were expressly appointed for application of the new law. *The high authority* of the International Military Tribunal is emphasized by Ordinance 7, Article X, according to which its actual findings are binding for the later courts.

This International Military Tribunal, however, has ruled that the punishable crime against humanity is a *dependent, subsidiary crime* and that it can only be considered a crime if it has been committed in connection with a war crime or a crime against peace. The verdict of the International Military Tribunal [1] in rejecting the criminality of crimes against humanity committed prior to the war states the following:

> "The Tribunal is of the opinion that revolting and horrible as many of these crimes were, it has not been satisfactorily proved that they were done in execution of, or in connection with, any such crime."

The *prosecution before the International Military Tribunal* has on its part endeavored to prove such a connection; this would not have been necessary if it had not considered this connection a part of the specification of the crime against humanity. Professor *Donnedieu de Vabres*, the French judge of the International Military Tribunal, expressed his attitude to this limitation of the punishable crime against humanity after the pronouncement of the verdict in a lecture quoted by the prosecution in the Flick case; [2] his opinion can be considered important. The French judge deplores the limitation of the crime against humanity, but he confirms it. This limitation is no figment of the imagination but the *necessary result* of the prevailing international law; it has its origin in the concept of *sovereignty.*

It is the purport of the *Moscow Declaration* and the London Statute, both of which have been incorporated into Law No. 10, to deal only with the crimes that affect the relations between nations. These relations are to be safeguarded and for that reason crimes are to be punished which are significant according to international law and which are connected with war crimes and crimes against peace. The "*international*" crimes are to be punished.

This significance of the international crime to be understood from the point of view of international law is especially clearly expounded in a book written by Professor Trainin who was the official advisor on judicial matters for the *Soviet Union* in the proceedings in Case I, the International Military Tribunal. This is a book entitled "The

[1] Trial of the Major War Criminals, vol. I, p. 254, Nuremberg, 1947.

[2] Lecture of Professor Donnedieu de Vabres, Association des Etudes Internationales "Le Procès de Nuremberg." Library of the International Military Tribunal XII 259.

Criminal Responsibility of the Hitlerites" published by the Law Institute, Academy of Science in the Soviet Union, through [edited by] the academician Vishinsky. The book was written at the time the statute originated. According to this, it is not the meaning and purpose of "international criminal law" to impose punishment for crimes which have no effect *beyond the borders of their own country* and which do not involve the *sphere of international law.*

The fact that no thought was given to punishment of crimes committed within the borders of Germany is evident from the *Moscow Declaration* of 30 October 1943. In this declaration crimes are mentioned exclusively which have been committed in other countries to which the accused are to be *returned.*

If there could still be doubts with regard to the interpretation of the subsidiary nature of the crime against humanity, these doubts are eliminated by the *Berlin Addendum Minutes* [Zusatzprotokoll] added to the statute, dated 6 October 1945. In these minutes the subsidiary nature of the crime against humanity is elucidated by means of a *correction*, the apparent insignificance of which is the very thing that serves to emphasize its importance. According to this, the four Allied Main Powers, as the signatories of the statute, meet again only for the purpose of transforming a *semicolon into a comma* and it appears in the minutes that this was done because the meaning and intentions of the agreements and the statute require it.

Article 6(c) of the statute was originally worded as follows and even at present is reproduced in many copies in the same form as far as punctuation is concerned:

> "(c) CRIMES AGAINST HUMANITY: namely, murder, extermination, enslavement, deportation, and other inhumane acts committed against any civilian population, before or during the war ';' or persecutions on political, racial or religious grounds in execution of or in connection with any crime within the jurisdiction of the Tribunal, whether or not in violation of the domestic law of the country where perpetrated."

The wording of the Berlin Addendum Minutes [Protocol] dated 6 October 1945 in this context reads as follows: *

> "Whereas an Agreement and Charter regarding the Prosecution of War Criminals was signed in London on the 8th August 1945, in the English, French, and Russian languages,
>
> "And whereas a discrepancy has been found to exist between the originals of Article 6, paragraph (c), of the Charter in the Russian language, on the one hand, and the originals in the English and French languages, on the other, to wit, the semicolon in Article 6,

*Translation of Protocol in this brief differed from original English copy. Authentic English version has been inserted here.

paragraph (c), of the Charter between the words 'war' and 'or', as carried in the English and French texts, is a comma in the Russian text,

"And whereas it is desired to rectify this discrepancy:

"NOW, THEREFORE, the undersigned, signatories of the said Agreement on behalf of their respective Governments, duly authorized thereto, have agreed that Article 6, paragraph (c), of the Charter in the Russian text is correct, and that the meaning and intention of the Agreement and Charter require that the said semicolon in the English text should be changed to a comma, and that the French text should be amended to read as follows:

"(c) LES CRIMES CONTRE L'HUMANITE: c'est à dire l'assassinat, l'extermination, la réduction en esclavage, la déportation, et tout autre acte inhumain commis contre toutes populations civiles, avant on pendant la guerre, ou bien les persécutions pour des motifs politiques, raciaux, ou réligieux, lorsque ces actes ou persécutions, qu'ils aient constitué ou non une violation du droit interne du pays où ils ont été perpétrés ont été commis à la suite de tout crime rentrant dans la compétence du Tribunal, ou en liaison avec ce crime.

"In witness whereof the Undersigned have signed the present Protocol.

"Done in quadruplicate in Berlin this 6th day of October 1945, each in English, French, and Russian, and each text to have equal authenticity.

For the Government of the United States of America:
[Signature] Robert H. Jackson
For the Provisional Government of the French Republic:
[Signature] Francois de Menthon
For the Government of the United Kingdom of
Great Britain and Northern Ireland:
[Signature] Hartley Shawcross
For the Government of the Union of Soviet Socialist Republics:
[Signature] R. Rudenko"

Obviously it was no printing error which simply would have been corrected. This is rather a *carefully thought out limitation* on the part of the Signatory Powers which was *clarified* unmistakably. Without this limitation, a *precedent* of decisive significance would have been created for *international law* for the possibility would have existed to prosecute at any time alleged crimes against humanity in a different country. According to this, the socialist states would have assailed the social conditions in capitalistic countries as crimes against humanity, and vice versa the capitalistic states could have replied to the measures of the socialist countries with an *intervention* as experienced by the young Bolshevist Revolution in 1919. Precisely that

however was to be prevented by not recognizing an independent crime against humanity for the protection of sovereign states. Professor Donnedieu de Vabres has particularly mentioned this point of view in his lecture *as a decisive point of view of the International Military Tribunal.*

The same restrictive view of this question is taken in the latest *International Law of the United Nations Organization* (UNO), Chapter I, Article 2, paragraph 7 of the resolution of San Francisco, concerning the establishment of UNO, dated 26 June 1945, reads that an *interference* in matters which are within the jurisdiction of the country is *inadmissible.* Accordingly it is a fixed principle of international law even today that proceedings within a state cannot entail sanction; spoken in the words of the statute, there are no independent crimes against humanity, which might be punished as international crimes.

The opinion of Hugo Grotius and his numerous adherents is rejected and is no longer valid as international law today. *Interventions from points of view of humanity are declined*, as their motive seems suspicious to the states.*

Decisive alone is the *practice* of the members of the *body of the nations who have agreed on international law* (Voelkerrechtsgemeinschaft) and the existing agreements on international law.

These *legal realities* must be contrasted with the extravagant opinion, which believes that the protection of humanity can only be safeguarded by a kind of international sovereignty limited by the sovereignty of the individual states. This would be an aim which we would most sincerely desire to attain, but practice shows that there are plenty of crimes against humanity even today, but *no institution* which has the power to punish them. There will never be such an institution, except insofar as it concerns the totally *vanquished after a total war*, to which in the future every war must lead.

Another point of view is quoted too which, in face of the decision of the IMT and while avoiding a precedent, will make crimes against humanity independent, at least insofar as application in Germany is concerned, with the effect that crimes of Germans against Germans could be punished by the military tribunals of the occupying power.

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*Compare literature of the Soviet Union. (*Karl Brandt 128* [not introduced in evidence].)

1. History of the all-Soviet Communist Party (Bolshevists). Under the editorial management of the commission of the Central Committee of the Communist Party 1938 (Bolshevists) approved by the Central Committee of the Communist Party OGIS State Publishing Office for Political Literature 1945, chapter 8:

"The party of the Bolshevists during foreign military intervention and the Civil War 1918–1920, page 215.

2. "Intervention," play in 4 acts by Sslawin [Slavin] 1940, Moskau [Moscow]-Leningrad (*Karl Brandt 127* [not introduced in evidence]).

It is maintained that the *authority of the Control Commission* for Germany *with regard to national law* gave them the power to extend the scope of punishment for crimes against humanity, independent of the statute. This is opposed by the elementary principle of international law that the *legislative authority* of an occupying power *only* begins *with the moment of occupation* and therefore can have *no retrospective force.* This principle is not in opposition to the theory that international law acknowledged a so-called "*retrospectiveness*" for war crimes in a wider sense, for this retrospectiveness only refers to the "*international crimes*" which are effective outside of one's own country and have an immediate influence from the point of view of international law. There it serves to carry through international penal law, the realization of which would *otherwise be impossible.* Here the so-called retrospectiveness means nothing else but that international law takes precedence over national law. This international point of view can have no value for national law.

If a different rule were in operation, all persons who supported the political opponent, i. e., the so-called "*patriots*" might be punished after the occupation of a country, and Hitler's Commissar Order [Kommissar-Befehl] according to which all active Communists were to be shot, would be sanctioned, because they were Communists and because of that were declared enemies of mankind, i. e. "criminals against humanity."

Such a *checking of the* "*morals*" of the enemy seems inadmissible; the checking of the conditions in one's own country is a matter for the people itself; the latter may, on account of its laws, or in a revolution, prosecute its compatriots itself, on the grounds of their behavior. The IMT kept just to this fundamental idea of the statute and one cannot push this law aside arbitrarily by declaring on political grounds that *in order to secure peace and democracy* all actions committed formerly in the country must be punished as crimes against humanity.

By such an interpretation of the authority in national law you would place yourself in strong opposition to the *proclamation of General Eisenhower* on the occasion of the occupation of Germany; this was incorporated in Law No. 1 of Military Government, and the following was decreed under threat of death in case of violation:

> "Accusation may only be brought in, sentence only be passed and punishment be inflicted, if a law which was in force at the time when the act was committed expressly declares this action punishable. Punishment of acts as a result of application of analogy or according to the opinion of the 'sound popular feeling' is prohibited."

Then attempts were made to support the unlimited legislative right of the occupying power by other means, and they referred to a "*debella-*

tio" or "*quasi-debellatio*" or to the fact that Germany had *capitulated unconditionally.*

Disregarding the fact that no *debellatio* is in hand and that only the Allies pronounce themselves occupying powers, and, without mentioning that Grossadmiral Doenitz* *had no valid authority* to renounce the protective international law for the German people, the valid law is clearly laid down in the *Hague Convention.* The regulations contained there in *Chapter III* have been created just for a capitulation situation and regulate the *right of occupation.*

Unconditional capitulation does not mean renunciation of the protection of international law nor submission to arbitrariness and illegality; but *capitulation within the framework of the war conventions*, i. e., within the framework of the Hague Convention.

These provisions of the Hague Convention are not only valid for the time of actual fighting, but must be valid also for the *time after cessation of the actual hostilities* until the peace treaty. The fundamental idea of the Hague Convention is the protection of the population against the arbitrariness of the enemy, and it cannot be permitted that after cessation of hostilities *stricter rules* may be applied to the inhabitants of an occupied territory *than during the time of actual fighting.* In the time when the occupying power hardly seems endangered any more the arbitrariness of a belated punishment of political opponents for actions, which they did in their own country according to the laws of their own country, must not rule.

Law No. 10 cannot disregard this international law, which was acknowledged by the International Military Tribunal after it had been issued and this Tribunal will have to check the *authority of the Control Commission* and watch that no measures are taken of which the participating peoples of the Signatory States are not informed officially, as the decisive laws were submitted to *no special ratification.*

Thus we come to the conclusion that the crime against humanity *of Law No. 10* must be the *same as that of the statute.* Bound to a war crime it cannot be applied to actions of Germans against Germans. Connected with a *crime against peace* you can imagine such crimes against Germans, but these crimes must be in the execution of or in connection with a crime against peace. So at least there must be a *close connection* with a *certain crime.*

Certainly it cannot be sufficient, therefore, that an act against a German is committed during a war and objectively furthered the war, but the perpetrator *must have known* that his action was in *connection* with a certain crime against peace, even if he himself were not guilty of it. Without this limit, all hard measures, which are taken during a war even against one's own population, as for example against con-

*Defendant before International Military Tribunal. See Trial of the Major War Criminals, Vols. I–XLII, Nuremberg, 1947.

scientious objectors and saboteurs, ought to be punished as crimes against humanity in connection with a crime against peace, if this war is declared to be an aggressive one by the enemy, after it has been lost.

Therefore *certain* things must be in hand which make the crime *obvious* and prove the connection. If you were to decide otherwise the well-formulated specifications of the statute would be superfluous, and likewise the protection of the population by the Hague Convention would be set aside in an inadmissible way, as the execution of every ordered war measure can be declared "inhuman". This interpretation of the subsidiary nature of the crime against humanity is confirmed, if one ascertains what *the real crime against humanity* itself is *primarily* supposed to be.

In the Flick[1] case the prosecution tried to make a definition from Article 6(c) of the statute. They referred to the clause "*in connection with a* crime within the jurisdiction of the court", and interpreted this as follows: That crimes of especially *large proportions* must be in question, since the International Military Tribunal should only deal with such. Such an interpretation cannot be maintained, as the International Military Tribunal is competent for *the most insignificant war crime too*, and for every crime against peace, regardless of its dimensions.

It must be admitted that the statute *does not contain a definition at all* and that characteristics of a crime against humanity are *not stipulated*. If you want to find such a specification for an independent crime against humanity, which is detached from crimes against peace and war crimes, you can only fall back on the notorious "*sound feeling*" and you will get lost in the void, because its limits are not fixed, but shift according to the *political wish*.

Here you can point to the fact that Germany's unrestrained *U-boat war* during the First World War was then pilloried as a *crime against humanity* and caused America to enter the war. During World War II, however, the same manner of warfare was used by the USA against Japan; this was cleared up before the International Military Tribunal by an affidavit of Admiral Nimitz.[2]

The answer to the question as to what the crime against humanity itself consists of can only be given from the *examples of the statute* and can be supported by the *interpretation* which the International Military Tribunal has given. According to this the *crime against humanity* is the *aggravation* of a war crime or a crime against peace. It differs from these crimes by its *dimension*, its *system*, and the *manner* of execution. This can be deduced from the wording of the text of the statute where as typical examples are quoted: "extirpation, enslavement, deportation".

[1] United States *vs.* Friedrich Flick, et al. See Vol. VI.

[2] Trial of the Major War Criminals, vol. XVII, pp. 377–381, Nuremberg, 1948.

In cases of crimes against humanity, according to this, actions must be in question which are punishable in themselves already, but in addition to this go further and are extended, so that they are "*qualified*" *crimes.* The dimension of the crimes is confirmed by the *wording of the Russian text*, which does not mention "homicide" but "homicides" in the plural, and not "persecution" but "persecutions" in the plural. The Russian text of Law No. 10 is worded similarly.

This opinion is confirmed in two places by the decision of the International Military Tribunal. The question of crimes against humanity is specially dealt with there in the section "War Crimes and Crimes against Humanity",[1] and in the section "The Law Relating to War Crimes and Crimes against Humanity".[2] Here the actions which are pronounced as *crimes against humanity* are characterized as perpetrated "*on a large scale*" and as "methodically" and "systematically" executed. They are called "terror politics" and are called "terrible and brutal" as well as "utterly ruthless", "deterrent and horrible". Not isolated murder nor isolated imprisonment nor the isolated boycotting of a Jew is meant, but only a *general measure* which violates "the most elementary laws of humanity".

These are not actions which an *individual* can execute *alone;* he needs *organized* help for that. *Therefore* the *perpetrator can only be a commander;* he who obeys is his tool and can only become a punishable assistant. Here the individual does *not* act *from his own* criminal *motive*, but he acts according to order and higher instruction. Therefore the *motive* of the action is basically *political.* Above all, the Hague Convention had in mind common *crimes of individuals*, which are rejected by the states themselves and which they themselves prosecute by penal law in the interest of humanity. For this purpose the states had issued corresponding national laws.

In the development of this idea, it is from now on a question of preventing political measures, which are *methodically carried through by the state*, by international penal law, i. e., measures which are rejected by the International Military Tribunal as "barbaric methods" and as "methods for breaking every resistance."

The rejection of such methods as crimes against humanity was expressed for the first time in *the Hague Convention* [*Annex*] *in Article 22*, according to which the belligerent nations have no unlimited right in the choice of means for doing damage to the enemy. Now the perpetrators of these actions are to be *punishable.*

Which means are still permitted in battle, however, and which methods are still admissible, can only be gathered from the practice of the states. If you look for an independent *measuring rod for*

[1] Ibid., vol. I, pp. 226–228.
[2] Ibid., vol. I, pp. 253–255.

humanity, you must establish that things seem still admissible which force us to stop a moment. The destruction of hundreds of thousands of inhabitants of an unprotected city by bomb carpets and the use of the atomic bomb makes a discussion rather senseless, as humanity did not object to these horrors, which in future will even be surpassed.

This measuring rod must not be forgotten if you proceed to the judgment of the crimes against humanity of which people are accused here. If such monstrosities are deemed admissible on one side, while similar actions on the part of the enemy are condemned, the *judgment* of humanity can only depend on the approval or disapproval of the *purpose and aim*, and thereby loses the name of justice.

The firm ground on which the punishable crime against humanity rests, can only be the *proved war crime* or a *definite crime against peace.*

B. Responsibility of Superiors for Acts of Subordinates

a. Introduction

Defendants who were in high positions in the German medical service rejected responsibility for the alleged criminal conduct of their subordinates. The prosecution argued that it "would be an unforgivable miscarriage of justice to punish the doctors who worked on the victims in the concentration camps while their superiors, the leaders, instigators, and organizers go free." The prosecution, for example, argued that Karl Brandt held supreme authority over all medical services in Germany, both military and civilian; that Handloser was the Chief of the Medical Services in the Wehrmacht; that Rostock was Karl Brandt's deputy charged with the task of "centrally coordinating and directing the problems and activities of the entire medical and health service" in the field of science and research; that Schroeder was the Chief of the Medical Service of the Luftwaffe; that Genzken was the Chief of the Medical Service of the Waffen SS; that Blome was the Deputy Reich Health Leader; and that these men were clearly responsible for the acts of their subordinates in their respective sectors.

The prosecution's summation of evidence on this question has been taken from the closing statement which appears below on pages 926 to 936. Extracts from the final pleas for the defendants Karl Brandt, Schroeder, Rostock, and the closing briefs for Handloser, Genzken, and Blome appear on pages 936 to 957.

b. Selection from the Argumentation of the Prosecution

EXTRACT FROM THE CLOSING STATEMENT OF THE PROSECUTION *

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The Responsible Leaders of the Medical Services

In view of the clear and overwhelming proof, it can only be concluded that the practice of experimentation on concentration camp inmates without their consent was an organized and systematic program. It is, therefore, appropriate to consider whether we have in this dock the leaders of the German medical services without whom these crimes would not have been possible. It would be an unforgivable miscarriage of justice to punish the doctors who worked on the victims in the concentration camps while their superiors, the leaders, organizers, and instigators go free. It has been established beyond controversy that these things could not have happened without cover from the top. Who, then, were these men on the top? Their survivors, with one exception, are all in this dock.

In the number one seat we have the defendant Karl Brandt. He held supreme authority over all the medical services in Germany, both military and civilian. He joined the Nazi Party in January 1932 and the SS in 1934, in which he rose to the rank of Gruppenfuehrer [Major General]. In the latter year, at the age of 30, he became the attending physician to Adolf Hitler and retained this position until 1945. His close personal relationship to the Fuehrer explains his rapid rise to power. On the day Poland was invaded in 1939, Hitler ordered Brandt and Philipp Bouhler, the Chief of the Chancellery of the Fuehrer, to carry out the so-called Euthanasia Program.

Aside from his personal influence and intimate connection with Hitler, Brandt's greatest power in the medical services came from his position as General Commissioner and later Reich Commissioner of the Health and Medical Services. As a result of the disastrous winter campaign in the East in 1941, Hitler established for the first time a medical and health official under his direct control by decree of 28 July 1942. This decree made Brandt the supreme authority over all medical services in Germany. It stated in part as follows:

> "I empower Professor Dr. Karl Brandt, subordinate only to me personally and receiving his instructions directly from me, to carry out special tasks and negotiations, to readjust the requirements for doctors, hospitals, medical supplies, etc., between the military and the civilian sectors of the Health and Medical Services.

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*Closing statement is recorded in mimeographed transcript, 14 July 1947, pp. 10718–10796.

"My plenipotentiary for Health and Medical Services is to be kept informed about the fundamental events in the Medical Services of the Wehrmacht and in the Civilian Health Service. He is authorized to intervene in a responsible manner." (*NO–080, Pros. Ex. 5.*)

By the same decree chiefs were also commissioned for the Medical Services of the Wehrmacht and the Civilian Health Service. The defendant Handloser became Chief of the Medical Services of the Wehrmacht, while Dr. Leonardo Conti, State Secretary for Health and the Reich Health Leader, was made Chief of the Civilian Health Services. Brandt was the superior of both Handloser and Conti, and through them had extensive powers over the Army, Navy, Luftwaffe, Waffen SS, and Civilian Medical Services. Brandt stood at the apex of power. He was subordinated to no one save the Fuehrer. He was the man to act for the Fuehrer in medical matters. The decree authorized Brandt "to intervene in a responsible manner" and directed that he be kept informed of "fundamental events". Certainly nothing could be more fundamental than a policy of performing medical experiments involving the torture and death of involuntary human subjects.

On 5 September 1943 Hitler issued a second decree empowering Brandt "with centrally coordinating and directing the problems and activities of the entire medical and health services * * *". (*NO–081, Pros. Ex. 6.*) The order expressly stated that Brandt's authority covered the field of medical science and research. Shortly following the issuance of this decree, the defendant Rostock was appointed by Brandt as Chief of the Office for Science and Research, with plenary powers in that field.

Finally, on 25 August 1944, the Fuehrer elevated Brandt to Reich Commissioner for the Health and Medical Services and stated that in this capacity "his office ranks as highest Reich authority." Brandt's position was thus equivalent to that of a Reich Minister. He was authorized "to issue instructions to the offices and organizations of the State, Party, and Wehrmacht, which are concerned with the problems of the Medical and Health Services". (*NO–082, Pros. Ex. 7.*) It is clear that this decree was issued to resolve a struggle for power between Brandt and Conti. Certainly the decree does no more than give Brandt a more august title and restate his powers, powers which he had already received as early as July 1942. Brandt testified that it merely "strengthened" his position. A service regulation issued by Keitel for Handloser, as Chief of the Medical Services of the Wehrmacht, at a time when Brandt was still General Commissioner, provided that Handloser was subject to the "general rules of the Fuehrer's Commissioner General for the Medical and Health Serv-

ices" and that Brandt had to be informed of the "basic events" in the field of the Medical Services of the Wehrmacht. In a pretrial affidavit the defendant Handloser stated that after he became Chief of the Medical Services of the Wehrmacht on 28 July 1942 "Brandt was my immediate superior in medical affairs." (*NO–443, Pros. Ex. 10.*) Schroeder stated that "Karl Brandt, Handloser, and Rostock were informed of the medical research work conducted by the Luftwaffe." (*NO–449, Pros. Ex. 130.*) In addition to his position as General and Reich Commissioner of the Health and Medical Services, Brandt was also a member of the Presidential Council of the Reich Research Council, an organization which gave financial support for criminal experiments.

In the number two seat is the defendant Handloser who held supreme power over the medical services of all branches of the Wehrmacht. Early in 1941 he was appointed Army Medical Inspector and Army Physician [Army Medical Chief (Heeresarzt)]. He held these positions until September 1944 and as such had complete command over the entire Army Medical Services which was by far the largest of the medical branches of the Wehrmacht. In his capacity as Army Medical Inspector, Handloser had subordinated to him the Consulting Physicians of the Army, the Military Medical Academy, the Typhus and Virus Institutes of the OKH at Krakow and Lemberg [Lvov], and the Medical School for Mountain Troops at St. Johann. He attained the rank of Generaloberstabsarzt, the highest military medical rank.

On 28 July 1942, Handloser was elevated to the newly created position of Chief of the Medical Services of the Wehrmacht. This was the same decree which appointed Brandt General Commissioner, to whom Handloser, on the military side, and Conti, on the civilian side, were subordinated. Handloser was charged with the coordination of the Medical Services of the Wehrmacht and all organizations and units subordinated or attached to the Wehrmacht, including the Medical Services of the Waffen SS. Prior to this decree there were four separate medical branches of the Wehrmacht, the Army, Luftwaffe, Navy, and Waffen SS, each operating independently of the other. Pursuant to this decree, Handloser was appointed to coordinate and unify their operations and was directly responsible to Keitel as Chief of the Supreme Command of the Wehrmacht (OKW). He had authority over the Chiefs of the Army, Navy, Luftwaffe, and Waffen SS Medical Services, and all organizations and services employed within the framework of the Wehrmacht, and over "*all scientific medical institutes, academies, and other medical institutions of the services of the Wehrmacht and of the Waffen SS.*" [Emphasis added.] (*NO–227, Pros. Ex. 11.*) He was the adviser of the Chief of the Supreme Command and of the Wehrmacht in all questions concerning the

medical services of the Wehrmacht and of its health guidance. In the field of medical science, his duties were to carry out uniform measures in the field of health guidance, *research and combating of epidemics*, and all medical matters which required a uniform ruling among the Wehrmacht, and further, *in the evaluation of medical experiences.*

One of the principal means used by the defendant Handloser in coordinating scientific research was the joint meeting of consulting physicians of the four branches of the Wehrmacht. At the Second Meeting East of Consulting Physicians in December 1942 at the Military Medical Academy, Handloser himself pointed out quite clearly the task of the Chief of the Medical Services of the Wehrmacht in unifying medical scientific research. In addressing the full meeting he said:

"The demands and extent of this total war, as well as the relationship between needs and availability of personnel and material, require measures, also in military and medical fields, which will serve the unification and unified leadership. It is not a question of 'marching separately and battling together', but marching and battling must be done in unison from the beginning in all fields.

"As a result, with respect to the military sector, the Wehrmacht Medical Service and with it the Chief of the Medical Services of the Wehrmacht came into being. Not only in matters of personnel and material—even as far as this is possible in view of special fields and special tasks which must be considered—but also with a view to medical scientific education and research, our path in the Wehrmacht Medical Service must and will be a unified one. Accordingly, the group of participants in this Second Work Conference East, which I have now opened, is differently composed from the First Work Conference in May of this year. Then it was a conference of the army; today the three branches of the Wehrmacht, the Waffen SS and Police, the Labor Service and the Organization Todt are participating and unified.

"You will surely permit that I greet you with a general welcome and with the sincere wish that our common work may be blessed with the hoped for joint success.

"I would, however, like to extend a special greeting to the Reich Chief of Health Services, Under Secretary Conti, who holds the central leadership of medical services in the civilian sector. I see in his presence not only an interest in our work themes, but the expression of his connection with the Wehrmacht Medical Service and his understanding of the special importance of the Wehrmacht in the field as well as at home. I need not emphasize that we are as one in the recognition of the necessity to assure and ease the

mind of the soldier, that he need not worry about the physical well-being of the homeland as far as this is within the realm of possibility in wartime." (*NO–922, Pros. Ex. 435.*)

Again, at the Fourth Meeting of Consulting Physicians in May 1944 the defendant Karl Brandt stressed the importance of Handloser's position, saying—

"Generaloberstabsarzt Handloser, you, a soldier and a physician at the same time, are responsible for the use and the performance of our medical officers.

* * * * * * *

"I believe, and this probably is the sole expectation of all concerned, that this meeting which today starts in Hohenlychen will be held for the benefit of our soldiers. The achievements to date of your physicians, Herr Generaloberstabsarzt, confirm this unequivocally, and their readiness to do their share makes all of us proud and—I may also say—confident.

* * * * * * *

"It is good simply to call these things by their names and to look at them as they are. This meeting is the visible expression of it—it is, it shall be, and it must be so in every respect; the consulting physicians are gathered around their medical chief. When I look at these ranks, you Generaloberstabsarzt Handloser, are to be envied; medical experts, with the best and most highly trained special knowledge, are at your disposal for care of the soldiers. In reciprocal action between yourself and your medical officers, the problem of our medical knowledge and capacity are kept alive." (*NO–924, Pros. Ex. 437.*)

This was no accolade paid to a man without power and influence. If Handloser is not responsible for the crimes committed by the medical services of the Wehrmacht, and especially of the Army and Luftwaffe, then no one is responsible.

In the number three seat we have the defendant Rostock who, as Brandt's special deputy, was charged with the task of "centrally coordinating and directing the problems and activities of the entire Medical and Health Services" in the field of science and research. Even prior to his appointment to that position in the fall of 1943, Rostock was one of the responsible leaders of the German medical profession. In 1942 he was appointed Dean of the Medical Faculty of the University of Berlin. In the same year he became consulting surgeon to Handloser as the Army Medical Inspector. He attained the rank of Generalarzt. As Chief of the Office for Science and Research under Brandt, it was Rostock's task to coordinate scientific research in Germany. He received reports as to the issuance of research assignments by the various agencies in Germany and de-

termined which of such assignments should be considered "urgent". He also served as Brandt's alternate on the Reich Research Council.

In the number four seat we have the defendant Schroeder, who from 1 January 1944 until the end was the Chief of the Medical Service of the Luftwaffe. From 1935 until February 1940 Schroeder was Chief of Staff to his predecessor, Erich Hippke as Luftwaffe Medical Inspector. From February 1940 until January 1944 he served as Air Fleet Physician of Air Fleet 2, when he replaced Hippke as Chief of the Medical Service of the Luftwaffe. Simultaneously he was promoted to the rank of Generaloberstabsarzt. As Chief of the Medical Service of the Luftwaffe, all medical officers of the German Air Force were subordinated to him. His position and responsibility are clear and unequivocal.

In seat number five is the defendant Genzken, who, as Chief of the Medical Service of the Waffen SS, was one of the highest ranking medical officers in the SS. He joined the Nazi Party in 1926 and in 1936 he went on active duty with the SS in the Medical Office of the SS Special Service [disposal] Troops [SS Verfuegungstruppe], which subsequently became the Waffen SS. In the spring of 1937 the Medical Office of the SS was enlarged and split into two departments. Genzken was made director of the department charged with the supply of medical equipment to and the supervision of medical personnel in the concentration camps. In this capacity he was the medical adviser to the notorious Eicke, predecessor of Pohl as the commander of all concentration camps. Sachsenhausen, Dachau, Buchenwald, Mauthausen, Flossenbuerg, and Neuengamme, among others, were under the medical supervision of Genzken. Few men could have been better advised as to the systematic oppression and persecution of the hapless prisoners of these institutions.

In May 1940, Genzken became Chief of the Medical Office of the Waffen SS in the SS Operational Headquarters, with the rank of Oberfuehrer. The SS Operational Headquarters was subordinated to Gruppenfuehrer Hans Juettner and was one of the twelve main offices of the Supreme Command of the SS. While Juettner was Genzken's military superior, his technical or medical superior was Reichsarzt SS Grawitz for whom he served as deputy on many occasions. In 1942 his position became known as Chief of the Medical Service of the Waffen SS, Division D of the SS Operational Headquarters. He attained the rank of Gruppenfuehrer in the SS and Generalleutnant of the Waffen SS [major general]. Among the offices subordinated to Genzken was that of the Chemical and Pharmaceutical Service under Blumenreuter and Hygiene under the defendant Mrugowsky. Mrugowsky was attached to Genzken's office as a hygienist in 1940 and was at the same time Chief of the Hygiene Institute of the Waffen SS which, in turn, was subordinated to

Genzken. On 1 September 1943, the Medical Service of the SS was reorganized and, among other things, Blumenreuter, Mrugowsky, and the Hygiene Institute of the Waffen SS were transferred to the Office of the Reichsarzt SS, Grawitz. Thereafter the direct subordination was to Grawitz rather than to Genzken.

And then there is the defendant Blome, Gruppenfuehrer [Major General] in the SA, Deputy Reich Health Leader, Deputy Leader of the Reich Chamber of Physicians and the National Socialist Physicians Association, Representative for the Department of Medical Study, Plenipotentiary in the Reich Research Council, and Chief of Research on Bacteriological Warfare. As the closest associate of Conti, he cannot be omitted from the list of the powerful. Conti was the highest authority in the field of civilian health administration. The decree of 28 July 1942, signed by Hitler, concerning the reorganization of the medical services, defines the position of Conti as follows:

> "In the field of civilian health administration the State Secretary in the Ministry of Interior, and the Chief of the Health Administration of the Reich [Reichsgesundheitsfuehrer], Dr. Conti, is responsible for coordinated measures. For this purpose he has at his disposal the competent departments of the highest Reich authorities and their subordinate offices." (*NO–080, Pros. Ex. 5.*)

There was not a single medical question which did not reach the Reich Health Department of the Nazi Party and the Reich Chamber of Physicians, subordinated to which were all physicians in Germany, with the exception of those on active service with the armed forces and in the SS. As a member of the Reich Research Council, Blome was personally connected with plans and enterprises involving criminal medical experimentation.

These were the responsible leaders of the medical services of Germany. Who, then, is missing from this illustrious gathering? During the course of the trial, we have frequently heard mentioned the names of Conti and Grawitz. Indeed, the defendants would have us believe that in these two men, together with Hitler and Himmler, resided the exclusive responsibility for the manifold crimes with which we are here concerned. I hardly need call attention to the fact that all are dead. All of them took their own lives rather than face the bar of justice. No one can deny that those men were, indeed, guilty. But this in no way serves to exonerate these defendants, who all played important roles in the mad scheme. It is a curious thing that not one of the defendants has pointed an accusing finger at a living man. If they are to be believed, all the guilty parties to these crimes are dead. According to them, justice must seek retribution only from the cadavers. The Luftwaffe defendants have been strangely silent as to Hippke, who, but for a belated capture, would

have a prominent seat in the dock. Those defendants who worked with the dead criminals—such as Gebhardt, Mrugowsky, and Poppendick with Grawitz, and Blome with Conti—ask the Tribunal to say that their association was honorable and pure, that their work was in another field, that their masters' crimes come as a great surprise and were never known to them. The evidence proves, however, that they not only knew of and supported these crimes, but also took a personal part in them.

In connection with the responsible positions of these defendants and most particularly of Karl Brandt and his assistant Rostock, Handloser, Schroeder, Genzken, and Blome, I wish to call the Tribunal's attention to the decision of the Supreme Court of the United States in the case of *In re Yamashita*.[1] On 25 September 1945, Yamashita, the Commanding General of the Fourteenth Army Group of the Imperial Japanese Army in the Philippine Islands was charged with violation of the laws of war.[2] He thereafter pleaded not guilty, was tried, found guilty as charged, and sentenced to death by hanging. A petition for a writ of habeas corpus was filed with the Supreme Court purporting to show that Yamashita's detention was unlawful for the reason, among others, that the charge preferred against him failed to charge him with a violation of the laws of war.

The charge stated that Yamashita, between 9 October 1944 and 2 September 1945, in the Philippine Islands, "while commander of armed forces of Japan at war with the United States of America and its Allies, unlawfully disregarded and failed to discharge his duty as commander to control the operations of the members of his command, permitting them to commit brutal atrocities and other high crimes against people of the United States and of its Allies and dependencies, particularly the Philippines; and he * * * thereby violated the laws of war." The military commission[3] which tried Yamashita found that atrocities and other high crimes had been committed by members of the Japanese Armed Forces under his command, that they were not sporadic in nature but in many cases were methodically supervised by Japanese officers, and that during the period in question Yamashita failed to provide effective control of his troops as was required by the circumstances. The Supreme Court stated the question for their decision in the following language:

> "It is not denied that such acts directed against the civilian population of an occupied country and against prisoners of war are recognized in international law as violations of the law of war * * *. But it is urged that the charge does not allege that petitioner has either committed or directed the commission of such

[1] 66 Supreme Court 340 (1946).
[2] Law Reports of Trials of War Criminals, vol. IV, pp. 3–4, London, 1948.
[3] Law Report of Trials of War Criminals, vol. IV, p. 2, London, 1948.

acts, and consequently that no violation is charged against him. But this overlooks the fact that the gist of the charge is an unlawful breach of duty by the petitioner as an army commander to control the operations of the members of his command by 'permitting them to commit' the extensive and widespread atrocities specified. The question then is whether the law of war imposes on an army commander a duty to take such appropriate measures as are within his power to control the troops under his command for the prevention of the specified acts which are violations of the law of war and which are likely to attend the occupation of hostile territory by an uncontrolled soldiery, and whether he may be charged with personal responsibility for his failure to take such measures when violations result."

The Court held that the charge was sufficient and that the law of war "plainly imposed on petitioner, who at the time specified was military governor of the Philippines, as well as commander of the Japanese forces, an affirmative duty to take such measures as were within his power and appropriate in the circumstances to protect prisoners of war and the civilian population. This duty of a commanding officer has heretofore been recognized, and its breach penalized by our own military tribunals."

This decision is squarely in point as to the criminal responsibility of those defendants in this dock who had the power and authority to control the agents through whom these crimes were committed. It is not incumbent upon the prosecution to show that this or that defendant was familiar with all of the details of all of these experiments. Indeed, in the Yamashita case, there was no charge or proof that he had knowledge of the crimes. In the case before the International Military Tribunal, proof was submitted that the Reichsbank, of which the defendant Funk was president, had received from the SS the personal belongings of victims who had been exterminated in concentration camps. In that connection the Tribunal said in its judgment:

"Funk has protested that he did not know that the Reichsbank was receiving articles of this kind. The Tribunal is of the opinion that he either knew what was being received or was deliberately closing his eyes to what was being done."*

But we need not discuss the requirement of knowledge on the facts of this case. It has been repeatedly proved that those responsible leaders of the German medical services in this dock not only knew of the systematic and criminal use of concentration camp inmates for murderous medical experiments, but also actively participated in such

*Trial of the Major War Criminals, vol. I, p. 306, Nuremberg, 1947.

crimes. Can it be held that Karl Brandt had no knowledge of these crimes when he personally initiated the jaundice experiments by Dohmen in the Sachsenhausen concentration camp and the phosgene experiments of Bickenbach? Can it be found that he knew nothing of the criminal Euthanasia Program when he was charged by Hitler with its execution? Can it be said that Handloser had no knowledge when he participated in the conference of 29 December 1941 where it was decided to perform the Buchenwald typhus crimes, when reports were given on criminal experiments at meetings called and presided over by him? Was Rostock an island of ignorance when he arranged the program for and presided over the meetings at which Gebhardt and Fischer lectured on their sulfanilamide experiments, when he classified as "urgent" the criminal research of Hirt, Haagen, and Bickenbach? Did Schroeder lack knowledge when he personally requested Himmler to supply him with inmates for the sea-water experiments? Can it be found that Genzken had no knowledge of these crimes when the miserable Dr. Ding was subordinated to and received orders from him in connection with the typhus experiments in Buchenwald, when his office supplied Rascher with equipment for the freezing experiments? Was Blome insufficiently informed in the face of proof that he collaborated with Rascher in the blood coagulation experiments, issued a research assignment to him on freezing experiments and to Hirt on the gas experiments, as well as performed bacteriological warfare and poison experiments himself?

No, it was not lack of information as to the criminal program which explains the culpable failure of these men to destroy this Frankenstein's monster. Nor was it lack of power. Can anyone doubt that Karl Brandt could have issued instructions to Handloser and Conti that doctors subordinated to them were not to experiment on concentration camp inmates? It is no excuse to say that Hitler and Himmler approved the policy and that his efforts may have failed. Certainly they approved it. But the fact is that Brandt also approved of and personally participated in the program. He was the "highest Reich authority" in the medical services, not Himmler. The medical services were Brandt's primary function, while Himmler had a few other tasks to keep him busy, such as running the SS, the Ministry of Interior, the German Police, and the Home Army, to mention a few.

Nothing could have been easier for Handloser than to issue a general directive that officers of the Medical Services of the Wehrmacht were to keep out of concentration camps. If he could not have done so, then we must conclude that no one could have. Handloser had no peer in the military medical services. And what Handloser could have done for all the branches of the Wehrmacht, Schroeder, Genzken, and Blome could have done with respect to the Luftwaffe, the Waffen SS, and the Reich Health Department.

The conclusion is inescapable that the crimes of these responsible leaders is a hundredfold greater than that of the wretches who executed the murderous experiments in the concentration camps. Theirs was the power, the opportunity, and the duty to control and their failure is their everlasting guilt.

c. Selections from the Argumentation of the Defense

EXTRACTS FROM THE FINAL PLEA FOR DEFENDANT KARL BRANDT *

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To what extent is the defendant Karl Brandt implicated in the medical experiments?

The prosecution says he is implicated in almost all of them and refers to his position and his connections. They state that he was the highest Reich authority in the medical sphere; there, however, they are misled by an error of the translator, for Karl Brandt only had the powers, regulated in a general way, of an "Oberste Reichsbehoerde" [highest Reich agency], but the execution of these powers was restricted to special cases.

This appears from the three known decrees and from the explanation thereof given by the witnesses. Moreover Karl Brandt was not given these functions until 1944, when these experiments were practically finished, as is shown by the time schedule submitted to the Tribunal for comparison.

It has been proved that the defendant Karl Brandt himself in a broadcast publicly called his position as Reich Commissioner that of a "differential" (coordinator). In fact, Karl Brandt's task was not to order but to adjust; it was a task designed to fit his character.

We have also learned from the presentation of evidence that the defendant Karl Brandt did not have the machinery at his disposal for issuing orders which was necessary for a supreme Reich authority; he lacked the staff and the means. No one who is acquainted with a government administration will think it possible under these circumstances that the defendant Karl Brandt might have been able to enforce his point of view against the resistance of the old agencies; no one will even think it probable that anything would have been done to facilitate such an attempt of the "new master."

Consequently, Karl Brandt's position was not such as to justify the conclusion drawn by the prosecution about his general knowledge. There was no official channel by which everything had to come to his knowledge, for he was not the superior of other authorities.

*Final plea is recorded in mimeographed transcript, 14 July 1947, pp. 10797–10817.

It is true that the defendant Karl Brandt was supposed to be informed about fundamental matters, that he had the right to intervene, etc. But these were only possibilities, not in conformity with conditions in practice. We have seen that Conti opposed him and that Himmler prohibited direct contact with Karl Brandt within his sphere.

Therefore, Karl Brandt can be brought into connection only with the events in which he participated directly.

Here it is striking first of all that the defendant Karl Brandt, who is supposed to have been the highest authority, appears only very rarely.

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Now the prosecution endeavors to establish a connection of Karl Brandt with the other experiments via the Reich Research Council. It is true that one can establish such a connection theoretically on paper, but the links of the chain break when one examines them closely. Only the head of the specialized department [Fachspartenleiter] judged the so-called research assignments, and he only investigated whether the aim was necessary for war, not how the experiment was to be carried out. He could not inform others of matters which he did not get to know himself.

The defendant Karl Brandt is charged further with not having protested in one case when he heard about deaths caused by experiments on persons sentenced to capital punishment in the well-known lecture on sulfanilamide. I must point out that even if this experiment had been inadmissible, silence would not be a crime for assent after the act is without importance in criminal law and one can be connected with plans and enterprises only as long as they have not come to an end.

Now the prosecution has introduced in its closing brief the new charge by which it holds the defendant Karl Brandt responsible for negligence. In this respect I should like to point out that no indictment for negligence has been brought in and that the concept of a crime against humanity committed by negligence cannot exist.

It will, therefore, be sufficient to emphasize that the alleged negligence depends on the existence of an obligation of supervision and the right to give orders through other agencies. In every state the spheres of competency are separated and it is not possible for everyone to interfere in everything because everyone is responsible for everything.

The prosecution says that the defendant Karl Brandt ought to have used his influence and have availed himself of his intimate relationship to Hitler to stop the experiments. Even presuming that he was aware of the facts as crimes, his guilt would not be of a legal but only of a political or moral nature.

Till now nobody has been held criminally responsible for the con-

duct of a superior or a friend; however, the Tribunal only has to consider the question of criminal law.

But in fact these close relations did not exist; the defendant Karl Brandt was the surgeon who had to be in attendance on Hitler; Dr. Morell, the latter's personal physician, soon tried to undermine the confidence placed in Karl Brandt so that he was charged with commissions which removed him farther and farther from the sphere of his medical activity.

The alleged intimate relations were eventually crowned by the dictation of a death sentence against Karl Brandt without his having been granted even a consultation on the charges advanced against him.

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*EXTRACTS FROM THE FINAL PLEA FOR DEFENDANT SCHROEDER**

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Your Honors, a clear distinction must be made between the periods when Professor Schroeder was not yet Chief of the Medical Service of the Luftwaffe and the time when he held that office. We are concerned here with the period from the beginning of 1940 to the end of 1943. During that period Professor Dr. Schroeder was the leading medical officer of Airfleet 2, and as such continually on service outside Germany. It was only from 1 January 1944 onwards that he held the position of Chief of Medical Service of the Luftwaffe.

This shows clearly that Professor Dr. Schroeder cannot be held responsible for all experiments in concentration camps which were carried out prior to 1 January 1944. His sphere of duties was confined to the medical care of the airfleet units under him and he was without any official points of contact with the Medical Inspectorate unless the latter was competent for his position as an airfleet doctor.

To give a picture of Professor Schroeder's duties at that time, I draw attention to the fact that the personnel strength of Airfleet 2 amounted to 200,000 to 300,000 men.

When dealing with Professor Schroeder's responsibility for the high-altitude experiments in Dachau, the prosecution had overlooked the fact that at the time in question, Professor Schroeder was airfleet doctor and maintained that during that time he was, after Professor Dr. Hippke, the Medical Chief, the second highest medical officer of the Luftwaffe. From that circumstance, the prosecution draws the inference that Professor Schroeder, as the second highest medical officer, was the obvious deputy for Hippke and, therefore, had to know about the most important events concerning the Medical Inspectorate.

The defendant Professor Schroeder has in his defense proved be-

*Final Plea is recorded in mimeographed transcript, 16 July 1946, pp. 10942–10971.

yond doubt that he was not the most senior medical officer after Hippke and, therefore, not Hippke's deputy. As Generalarzt and Generalstabsarzt he simply had the rank next to that of the Medical Chief, as did the other five airfleet doctors. Above him in rank were two Generalstabsaerzte, namely Generalstabsarzt Dr. Neumueller and Dr. Blaul. The former had his office in Berlin and was in fact Hippke's deputy if and when necessary.

Professor Dr. Schroeder has also refuted the further assumption of the prosecution that his relations with Professor Dr. Hippke had been particularly close, for which reason Hippke had informed him about the high-altitude experiments. In particular the witness Dr. Augustinick, Schroeder's personal adjutant during his service as an airfleet doctor, confirmed that relations between Hippke and Schroeder were extremely tense and unpleasant and that they confined themselves to discussing only the necessary things on the occasion of their highly infrequent official meetings.

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Your Honors, if one surveys the conduct of Professor Schroeder during the entire period from 1940 until the end of the war, one will not be able to find one single piece of evidence to show that Professor Schroeder at any time or in any manner violated the duties which the calling of a physician or medical ethics prescribed for him. In no instance did he act in a manner which could not stand examination by a court. One may well claim that he never disregarded the maxim of Hippocrates "primum nil nocere," but preserved it as a guiding principle of his actions as a doctor and officer of the medical services of the German Luftwaffe.

The prosecution has failed to prove that Schroeder ever ordered such an experiment during the period of time covered by the charges of the prosecution, or that he participated or had knowledge of any such experiment. It has not even been proved that it was possible or necessary for him to gain knowledge of such experiments. Professor Schroeder has clearly explained why he could not gain such knowledge. For the whole period of time from 1942 to the end of 1943 the responsibility must rest on Professor Hippke, but not on Professor Schroeder.

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EXTRACTS FROM THE FINAL PLEA FOR DEFENDANT ROSTOCK *

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In the opening statement General Taylor said that the Reich Commissioner for the Medical and Health System was to be regarded as the supreme Reich authority. (*Tr. p. 19.*) The emphasis on this word

*Final plea is recorded in mimeographed transcript, 15 July 1947, pp. 10850–10873.

is confusing and contradicts the authentic Document NO-082, Prosecution Exhibit 7 which states, "In this capacity his agency is a supreme Reich authority." In this decree, then, the word "the" is missing. But this is most essential. For the decree signifies that it is one of many "supreme Reich authorities," whereas the type of expression chosen by General Taylor must lead one to conclude that it was the only "supreme Reich authority" in the Department of Health. But, as the evidence has shown, this was not true. In his opening statement on 9 December 1946 (*Tr. p. 19*) General Taylor said: "Rostock's position comprised the activities of the medical societies, the medical universities, and the Reich Research Council."

During this trial none of the numerous German medical societies, with the exception of Ahnenerbe, have been attacked. I want to point out here that, first of all, the Ahnenerbe cannot be considered as a medical society, as is proved beyond doubt by the plan of organization submitted to this Tribunal. (*Sievers 2*, *Sievers Ex. 4; Sievers 3*, *Sievers Ex. 6.*) And let me point out that Rostock testified (*Tr. p. 3296*) that during the war he did not know this society or even its name, and that on 11 April 1947 the witness Sievers stated (*Tr. p. 5788*) that Ahnenerbe's medical institutes for scientific research of military value were not subordinate to the Commissioner General for the Medical and Health System, that means, were not subordinate to the office directed by Rostock.

Neither were the medical universities subject to his supervision. They were subordinate to the Reich Ministry of Education.

I shall deal with the Reich Research Council later on. First, I would like to deal with the *Office for Science and Research.* As far as the incorporation into the German state machinery of the Office of the Commissioner General or the Reich Commissioner for the Medical and Health Services is concerned, I refer to Dr. Servatius' statements.

Without a doubt, the prosecution has gained the wrong impression of the extent, actual activity, and influence on other agencies of the Office for Science and Research.

Rostock has dealt with this question in detail during direct examination. The Tribunal will certainly still have a recollection of his statement. Rostock actually had no supervisory authority over research work of the branches of the Wehrmacht and the SS.

Brandt's, and thus also Rostock's, commission did not comprise all medical affairs but only special tasks as was testified quite clearly here by the witness Lammers on 7 February 1947. (*Tr. p. 2667.*) And the assignment given Rostock did not include supervision of practical research. (*Tr. p. 2449.*) On 23 April 1947 Professor Rose quite correctly described the situation in Germany (*Tr. p. 6300*) when he said that the central planning of medical research in Germany is a phantom born 1½ years after the end of the war. True, attempts were made

to correct the impossible situation created by the lack of a central direction of science in Germany. Attempts were made but the leading German politicians recognized the importance of science too late.

Germany did not have an institution with the competency and the financial means of the American "Office of Scientific Research and Development" under Dr. Vannevar Bush which, under the direction of the same man, was taken over into the United States' peace organization under the name of "Joint Research and Development Board." The relationship of Rostock's agency to the SS must be discussed briefly, for all experiments which play a part in these proceedings were, after all, carried out in concentration camps which came under the jurisdiction of the SS. Rostock himself was never a member of the SS. Apart from that, he had no other relations of any kind with the SS. When the agency of the Commissioner General for the Medical and Health System was created, Hitler, in the presence of Himmler, made it quite clear to Karl Brandt that in his (Karl Brandt's) capacity of Commissioner General the SS was not his affair. (*Tr. p. 2324.*) The practical execution of this directive has been expressly confirmed by Genzken. (*Tr. p. 3780.*) Furthermore, the decree of 25 August 1944 (*NO–082, Pros. Ex. 7*), which lists the agencies to which the Reich Commissioner for the Medical and Health System could give directives, does *not* mention the SS. Genzken also testified that no direct connections existed between Genzken's and Brandt's offices. According to the numerous affidavits submitted by Genzken (*Genzken 1, Genzken Ex. 3; Genzken 9, Genzken Ex. 9; Genzken 6, Genzken Ex. 10; Genzken 8, Genzken Ex. 11; Genzken 3, Genzken Ex. 12; Genzken 5, Genzken Ex. 13; Genzken 16, Genzken Ex. 14; Genzken 17, Genzken Ex. 15; Genzken 15, Genzken Ex. 16*) only Grawitz was competent for scientific research within the SS. Genzken also testified that Rostock never gave instructions in research affairs to the SS. (*Tr. p. 3780.*)

Gebhardt testified on 4 March that Grawitz was never subordinate to Karl Brandt and that Brandt never even had the right to give directives to Grawitz. (*Tr. p. 3977.*) He testified further that Himmler wanted to create a "science exclusively for the SS" and that the university people had resisted that attempt. However, Rostock must quite definitely be considered an exponent of university scientists. The proof for the correctness of Himmler's intention of a "science exclusively for the SS" is contained in a letter, dated 22 September 1942, from SS Gruppenfuehrer Berger to the Reich Leader SS. (*Karl Brandt 120, Karl Brandt Ex. 35.*)

When in the instruction of 15 May 1944 (*NO–919, Pros. Ex. 460*) Himmler fixed the formalities for the carrying out of experiments on prisoners, it was natural that the names of Rostock or Karl Brandt were not mentioned in it. This instruction was not sent to Karl

Brandt even for information purposes as is revealed by the document itself. This should be sufficient proof that Rostock had no influence on research activities within the SS or the concentration camps. During discussion of the individual experiments it has already been pointed out that he did not even know of them.

In regard to research commissions given to the medical chiefs of the Luftwaffe, Schroeder had claimed (*NO–449, Pros. Ex. 130*)—and during cross-examination he was again reproached for this document (*Tr. p. 3695*)—that all research assignments had to go through Rostock's office. In his affidavit Schroeder testified that this was an erroneous description. (*Rostock 11, Rostock Ex. 10.*) In another interrogation on 27 February 1947 by Dr. Krauss (*Tr. p. 3695*) Schroeder expressly confirmed the correctness of this affidavit. For it had only been agreed that a carbon copy of the research commission given out would be sent to Rostock. His approval of the assignment of commissions was not required. The witness Wuerfler, too, confirmed this during his cross-examination by Dr. Krauss on 19 February 1947. (*Tr. p. 3142.*) And in his affidavit, Becker-Freyseng testified that the Luftwaffe did not commission Rostock's office to carry out research by way of experiments on human beings. (*Rostock 10, Rostock Ex. 9.*)

During the hearing of evidence on 2 June 1947 in the case of Becker-Freyseng, it was discussed in detail how research commissions happened to come about, how reports were made on them and that the means by which results were obtained were not prescribed; and that a real control by the agency giving out the commissions was neither exercised nor possible. I refer to the transcript which contains significant testimony in this connection. (*Tr. pp. 8317, 8320, 8321, 8324–8326.*)

And now I would like to turn to the problems connected with the *Reich Research Council.* Here the prosecution has charged Rostock with responsibility because from the beginning of 1944 on he was Brandt's deputy in his capacity as a member of the presiding council of this body. The fact itself is not, but the responsibility, especially in the sense of penal law or morals, must be denied. I deny the prosecution's assertion, leading up to Mr. McHaney's statement of 10 December 1946 (*Tr. pp. 96 and 144*), that Rostock exercised a "supervisory control" over the Reich Research Council or—on the occasion of submitting a letter from Rascher about freezing experiments (*NO–432, Pros. Ex. 119*)—that the "Reich Research Council as a whole is implicated in a criminal manner."

The question of the Reich Research Council has been cleared up sufficiently during the examinations of Karl Brandt, Rostock, Blome, Sievers, as well as by the affidavits of the Chief of the Managing Committee of the Reich Research Council, Mentzel. (*Rostock 13, Rostock Ex. 12; Sievers 42, Sievers Ex. 43.*) As the crux emerges in

this connection the fact that those responsible for the assignment of research commissions were, exclusively, the managers of the special sections and their authorized agents and plenipotentiaries who in turn were directly responsible to Hermann Goering.* Rostock was not among them. The members of the presiding board had no supervisory duty over and no right to issue directives to the managers of the special sections.

The members of the presiding board were informed about research carried out through the printed reports, the so-called "Red Booklets." It can be assumed "that the prosecution is in possession of these booklets. The entire files of the Reich Research Council were handed over to the American authorities by Professor Osenberg and some documents from these files have been submitted during this trial."

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If the "Red Booklets" contained a single paragraph which could be used to prove the prosecution's claims, it can be assumed with certainty that these booklets would have been submitted here. But this was not done. From this the conclusion can be drawn with certainty that the members of the Presiding Council of the Reich Research Council did not receive any information about criminal experiments. And, as quoted before in this connection, Mr. McHaney himself admitted during the cross-examination of Rostock that he did not believe that, for example, Haagen informed the Reich Research Council about his experiments in the concentration camps.

Haagen made detailed statements on the coming into being of research commissions in general and, also in particular, on that of the commissions he gave out, and on the right and the duty of control held by the agency giving the commission. (*Tr. pp. 9417–9419.*)

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EXTRACTS FROM THE CLOSING BRIEF FOR DEFENDANT HANDLOSER

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It is the duty of the Inspector of the Army Medical Service, as Chief of the Army Medical Service, to insure within the scope of his official supervision that the intermediate superiors are able to perform their duties. He also has to see to it that the military information and report channels are well organized in order to guarantee the required survey of the *whole* complex and the reporting and immediate investigation of unusual *individual* cases. This requires the greatest possible care in the *selection* of the subordinate leading medical officers, as well as periodic inspections to be carried out by the officers selected.

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*Defendant before International Military Tribunal. See Trial of the Major War Criminals, Vols. I–XLII, Nuremberg, 1947.

Professor Handloser has submitted an affidavit to this Tribunal concerning the reporting systems pertaining to military medical matters of the Wermacht branches. (*Handloser 65*, *Handloser Ex. 62.*)

This document reveals the exemplary organization of the Message and Report Organization, including the sphere of the consulting expert physicians. The handling of the reports on "special occurrences" seems to me to be of special importance for the problem under discussion here. It was a standing order for the whole Wehrmacht that every office, including the offices of the medical service, had to report to the superior office immediately and by the quickest method each occurrence of each circumstance outside the bounds of normal events. (*Handloser 65*, *Handloser Ex. 62.*)

Professor Handloser as Inspector of the [Army] Medical Service and Surgeon General [Army Medical Chief (Heeresarzt)] was the Chief of the Medical Service for all fronts and the zone of the interior and was responsible to the Commander in Chief of the Army and to the Commander of the Replacement Army. The 26,500 medical officers of the army were subordinated to him. His field of office and the extent of his work were, therefore, extremely wide.

To handle such a large field of work properly—in Handloser's case it also included the office of the Chief of Army Medical Service—a division of labor had to be made into time, space, and facts. The organization and the progress of work in the sphere of the Army Medical Inspector and the Chief of the Army Medical Service was explained by Professor Handloser in his affidavit. (*Handloser 29*, *Handloser Ex. 4.*) According to this the basic and most important questions were dealt with and decided upon in any case by Professor Handloser as the chief of the highest office. In this connection I refer to the testimony of Dr. Wuerfler (*Tr. p. 3135*) and affidavit of Schmidt-Bruecken. (*Handloser 62*, *Handloser Ex. 58.*) Special attention has to be paid here to incoming mail (messages, reports, letters). In the Handloser affidavit (*Handloser 29*, *Handloser Ex. 4*), the following is stated:

> "All letters and packages, unless they were marked 'secret' or 'top secret' (Mil.) went to the registry. Here they were opened, the date stamp was affixed by the registrar who simultaneously marked the letter for delivery to the Chief of Staff, or to the various section chiefs direct. The Chief of Staff in turn marked those communications which were to be submitted to the medical chief with a cross in colored pencil.
>
> "Secret and top secret (Mil.) material was handled in a special manner. This material was entered in a journal, and then directed to the attention of the Chief of Staff who in turn determined which documents were to be submitted to, or brought to the attention of,

the medical inspector immediately or after they had been dealt with."

This arrangement could be made without prejudicing a regular settlement since the authorities in question were under the command of specially qualified people (department chiefs) headed by the Chief of Staff who supervised the daily business routine and was responsible for all business matters.

With regard to Handloser it must be borne in mind that during the war he was very rarely present in the head office (Berlin). Owing to Handloser's double function as an army doctor and Army Medical Chief, and furthermore as a result of the division of the Army Medical Inspectorate into two parts for the front and the zone of the interior, Handloser necessarily had to spend most of his time at army headquarters and at the front. He could only be present in Berlin for about one-tenth of the time. (*Tr. p. 3135.*) Furthermore, it became necessary to staff the offices at home with specially qualified medical officers since they had to act mainly on their own initiative in performing their tasks.

The Chief of Staff of the Army Medical Inspectorate, for instance, was a Generalarzt; the chiefs of the individual departments were Oberstaerzte. In order to do justice to the burden and the responsibility which Handloser had been shouldering, one must visualize the tasks and scope of work connected with the Medical Inspectorate. Owing to the war these tasks had been intensified to the utmost limits, there was the expansion of the theaters of operation and the personal problems of 26,500 medical officers. One will also realize that Handloser could only attend to the most important and the most basic problems.

The Chief of Staff and the departmental chiefs, as was their duty, determined which matters were of sufficient basic and vital importance to be referred for decision to the Army Medical Chief.

It must be considered most unlikely for the highest authority (i. e., the chief) of a large sphere of activity to have knowledge of all happenings within this sphere.

Furthermore, actual facts do not confirm that the person exercising the *highest powers* of command within the military hierarchy of the army is in some degree the originator of all orders executed by a subordinate in his hierarchy. If an order has been issued, one must determine who of all the supervising chiefs of the offices in this hierarchy is the originator responsible, under criminal law, for this order. If *no* special order was issued one must examine whether the incriminating behavior on the part of the defendant personally was prompted by circumstances within the scope of responsibility, under criminal law (such as orders and regulations which rendered possible the criminal behavior of a subordinate or appropriate consent to

commit the criminal offense, *before* its initiation or its completion).

Only if the prosecution maintains and proves (*a*) that the behavior of a subordinate constitutes a punishable offense, and (*b*) that *this* action in particular was the result of an order issued by the superior, or of his consent given prior to the offense, can the defendant be charged as an abettor, offender, accomplice, or participator.

This exhausts all possible modes of behavior *prior* to the criminal offense. Whatever happened afterwards *cannot* have any relevant bearing on this legal evidence. This is *impossible* since all causality is lacking.

With regard to the question of a possible offense against the duties of a supervisor, the following must be said: According to Art. 147 of the German Military Penal Code "Whoever neglects to carry out the task incumbent upon him of supervising his subordinates either intentionally or through negligence" is liable to punishment. According to German theory and judicial practice, the application of this law presupposes the existence of a *direct* relationship between superior and subordinate.

If anything inadmissible or punishable happens in the sphere of duty this might be attributed to the fact that the supervising official neglected his duty, but it is also possible that it occurred through no fault of the supervising official. In the first instance the supervising official is liable to punishment according to Art. 147 of the Military Penal Code; this, however, does not apply in the latter case. The question only arises of whether in the former case the supervising official has to answer *before criminal law* for the action of his subordinate. This must be answered in the negative. An offense against the duties of service supervision constitutes in itself an offense. It does *not* automatically demand that the supervising official should be punished for the criminal offense committed by the subordinate, for according to the criminal laws of all civilized countries, a person can only be made responsible before criminal law for an offense committed by *himself*, i. e., if the supervising official can be considered an accomplice or participant in the crime of a subordinate. Only *thus* can the passage of count one, 3 of the indictment be understood. This provides for a responsibility before criminal law for others, "for whose actions the defendants are responsible."

The prerequisites for this case have been set forth above.

* * * * * * *

The position of Professor Handloser as Chief of the Armed Forces Medical Service

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The prosecution asserts that Handloser as Chief of the German Armed Forces Medical Service had the *supreme supervision* and

command of the medical services of the three branches of the armed forces as well as of the Waffen SS. This is a *fundamental* error which is based on the incomprehensible statement of the chief prosecutor in his opening statement:

"Under the OKW came the High Commands of the three branches of the Wehrmacht—the Navy (OKM), the Army (OKH), and the Air Force (OKL)."

From the verdict of the IMT, I quote the following in regard to the Chief of the Supreme Command of the Armed Forces (OKW) who was the superior of the defendant Handloser:

"Keitel [as Chief of the Supreme Command of the Armed Forces] did not have command authority over the three Wehrmacht branches * * *."*

From this the prosecution should have drawn the logical conclusion that, if the superior of Handloser, Keitel, had no powers of command over the three branches of the armed forces and their supreme commanders, then Professor Handloser, as his subordinate, also could have had no powers of command over the medical chiefs attached to the staff of the supreme commanders. The evidence has corroborated this. (*Tr. pp. 2860–3, 3129–30, 3219, 3557.*)

The prosecution refers for proof of the contrary only to the statement of the former Air Force Chief Hippke in another trial. According to that Hippke is supposed to have testified that Professor Handloser had been his *professional* superior. The incorrectness of this statement is proved by the opposing testimonies given under oath by Professor Dr. Schroeder who succeeded Hippke and of Generalarzt Dr. Hartleben (*Tr. pp. 3219–20, 3225*), as well as of Generalarzt Dr. Wuerfler (*Tr. pp. 3129–30*). The evidence submitted, combined with the contents of the decree of 1942, has shown that it was the duty of the Chief of the Armed Forces Medical Service to direct the adjustment of *personnel* and *material* affairs within the branch of the armed forces as is evidenced by the first sentence of the decree. Within the scope of this sphere of duties, Professor Handloser was charged with the combination or—as it was generally called—the coordination of all *common* problems in the field of the Armed Forces Medical Service. The task of coordination given Professor Handloser did not mean that thereby all common problems automatically *came under his jurisdiction.* It was rather his duty to examine *which* part of the immense medical service was suitable for coordination. Generalarzt Dr. Wuerfler has aptly called this a "program of future fields of endeavor". In this connection see also Professor Schroeder (*Tr. pp. 3557, 3558*). Whenever Handloser thought that a certain department was suitable for coordination, he tried to reach an agree-

*Trial of the Major War Criminals, vol. I, p. 288, Nuremberg, 1947.

ment with the medical chiefs of the branches of the armed forces; for since he had no powers of command, the coordination could only take place in conjunction with the medical chiefs. After coordination had been accomplished, he was empowered to issue "directives" in this field which did not have the character of an order. Hartleben replies to the question of my colleague Dr. Steinbauer:

"Directives give general guiding principles, an order must be carried out to the letter."

Wuerfler expresses the same in the following manner:

"A superior has the authority to give orders. One can only speak of a right to issue directives where there exists no authority to give orders and no relationship of superiority."

Research is a field which by its nature is unsuitable for coordination. For, while it is possible to alleviate personnel and material deficiencies in the personnel and material fields of the medical service by coordination, or in other words to achieve a practical useful effect, such is not the case with respect to research. The prosecution also questioned Professor Rostock regarding the problem of coordination in the field of research and argued that through such a coordination, that is to say, such a concentration of research activities which were carried on in various places, personnel and material could be allocated more effectively. Professor Rostock has made some remarks on this account which are of fundamental importance because they disprove the thesis of the prosecution with objectively convincing reasons. According to him, many conditions in the military and medical fields are suitable for coordination, while research *cannot* be coordinated. It is better for the aim in view when *several* scientists work on the *same* research subject, than if only one office were engaged in this activity. Professor Rostock says quite rightly:

"If someone were to say to me, give this matter all your attention, and the same thing is being worked on at this place and that, then, in all probability, I should have looked for reasons *why* it was necessary for *both* places to be doing the same thing."

And again:

"I would regard it as an *absolute* mistake to say to one scientist: You are not allowed to work on that any longer, the other one is working on that * * *." (*Tr. p. 3352.*)

Witness Hartleben, too, took the same point of view during cross-examination. (*Tr. p. 3217.*) To the question of the prosecutor:

"Would it not have been the task of the Chief of the Armed Forces Medical Service to coordinate the separate research activities in the same field in order to make the most advantageous use of available personnel and material"?

he replied:

"In my opinion the Chief of the Armed Forces Medical Services must in such a case make an investigation; because it is after all the case in science and research that very often it becomes necessary to pursue many different ways in order to arrive at some aspired goal, and the case may occur—and I can imagine it very well—where it is desirable to have several scientists engaged on the same problem * * *."

Therewith Rostock confirms the defense argument of Handloser on this count. Summing up: The end aspired to by coordination—saving of personnel and material—is incompatible with the very nature of successful research. The order for the coordinating of personnel and material can, therefore, never be applied to the field of research.

Quite another thing is the creation of working groups within the same field of research. The purpose of the creation of such a working group was not to be a saving of personnel and material but mutual information and discussion in order to check how far the individual researchers had advanced by different routes.

Such a measure proposes to counteract the exaggerated secrecy and egotistical withholding of information often noticed in the field of research. Inventors and scholars regard their discoveries as revolutionary. As prototypes of individualism they are intent on keeping the details of their research secret even, or precisely, from other scholars who work in the same field. This fact is aptly characterized in the document submitted by the prosecution. (*NO–262, Pros. Ex. 108.*) I quote from this letter of the former Chief of the Air Force Medical Service, Dr. Hippke:

"The difficulties exist in quite another field. They are questions involving the vanity of the individual scientists, each and every one of whom wants to obtain all the results of the research individually, and who often can only be brought to altruistic cooperative work with the greatest difficulties."

The Court will see from this that the creation of working groups in the field of hepatitis research in accordance with the suggestion of Dr. Schreiber at the Breslau Hepatitis Conference in June 1944 had nothing to do with coordination, but that it left the number and the *activity* of the different scholars engaged in hepatitis research untouched. The Chief of the Armed Forces Medical Service also had in his very limited office staff no department for research. (*Tr. pp. 3218, 3224.*) Only in the service regulations which became effective on 1 September 1944 (*NO–227, Pros. Ex. 11*), which however practically never went into effect. (*Tr. p. 3140; Handloser 29, Handloser Ex. 4.*) Under 14a one of the tasks of the Chief of the Armed Forces Medical Services was mentioned as being the taking of uniform meas-

ures in the field of medical science, including the field of research and the fight against disease. However, here, too, it was not a matter of the subordination of the research institutions of the branches of the armed forces but of examining a "problem" *whether* cooperative work in certain fields of research was feasible. Actually, due to developments since September 1944, coordination in the field of research never took place. The research activities of the different branches of the armed forces as well as of the Waffen SS were and remained independent. What is important in this trial in regard to Handloser's responsibility is the question *whether* he as Chief of the Armed Forces Medical Services had any functions in the field of research and if so what they were. He himself has stated and Generalarzt Dr. Hartleben, who had an authoritative part in the drafting of the decree of 1942 (*NO–080, Pros. Ex. 5*) and of its supplementary service regulations, has declared that the research activities of the branches of the armed forces and of the Waffen SS did *not* belong to the official department of the Chief of the Armed Forces Medical Services. For the department of research of the Air Force Medical Inspection Service the aforementioned Air Force Medical Inspector Hippke has furnished convincing proof. The prosecution submitted a letter from Hippke of 6 March 1943 to SS Obergruppenfuehrer Wolff (*NO–262, Pros. Ex. 108*) from which I quote—

> "Your opinion that I as *responsible head* of all *research activities in medical science* had objected to freezing experiments on human beings and had thereby obstructed the development is erroneous."

Furthermore I call attention to Document NO–289, Prosecution Exhibit 72 and Document 1612–PS, Prosecution Exhibit 79, which confirm the independence of the air force research work, also to the affidavits of Professor Schroeder and Dr. Becker-Freyseng. (*Handloser 22, Handloser Ex. 33; Handloser 23, Handloser Ex. 34.*)

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It is undisputed that *one* connection existed between the two medical services, viz, the one with *that* part of the Medical Service of the Waffen SS which was connected with the Waffen SS divisions during mobilization at the front. It was under *those* medical offices of the army which corresponded to the respective superior military offices. The divisions of the Waffen SS came under the corps commander of the army; correspondingly, the Medical Service of the Waffen SS divisions came under the corps doctor; the medical service led via the army medical officer [Armeearzt], the army group medical officer, and the army medical chief [Heeresarzt] to the army medical inspector and above him, to the Chief of the Armed Forces Medical Service.

None of these offices, neither military nor medical, could interfere with the essential "character," the appointment of personnel equipment make up, organization, etc., of the division. The order pertained only to *mobilization* at the front (tactical subordination). Beyond that, *all* authority remained in the hands of the superior office of the Waffen SS, the Operational Main Office [Fuehrungshauptamt], Reich Leader SS (Himmler-Grawitz).

The mobilization of the medical units, of the field hospital ambulances and hospital trains, i. e., of the various units of the division medical officer SS, were handled by him in accordance with instructions from the division. Higher orders in regard to the care of SS wounded and sick were given to the SS division medical officer via the army corps medical officer by the army medical chief. In the ordinary course of medical matters, even the army medical officer was not included with the exception of casualty report service. The Army Medical Inspector and the Chief of the Armed Forces Medical Service had practically no occasion to interfere. That only happened when some *special event* was reported to the higher offices.

The Chief of the Armed Forces Medical Service had the power only for the length of time of subordination to the armed forces to delegate authority, by request of the army medical chief through the Army Medical Inspector, to the army or corps medical officer to make personnel or material adjustments within his department.

With the exception of the fighting divisions, the Chief of the Armed Forces Medical Services had no authority over *any* other unit or establishment of the Waffen SS, any more than over Dr. Genzken as Chief of the Waffen SS Medical Service beyond the limit of the front divisions. In summing up, then, it is to be noted that the relationship between the armed forces medical offices and those of the Waffen SS was limited in time and practice to the medically necessary tactical subordination and to the medical service during combat operations. This goes to prove that Professor Handloser did not have any influence on the medical organization of the Waffen SS, that is to say, on the entire range of affairs and provinces of the medical service and the health service. This applies especially to medical research and the institutions created for that purpose. This has been proved (*a*) by the affidavit of Professor Handloser on the diagram of the Medical Service of the Armed Forces; (*b*) by the affidavit of Professor Mrugowsky (*Handloser 17*, *Handloser Ex. 5*); (*c*) by the affidavit of Dr. Genzken (*Handloser 16*, *Handloser Ex. 6*); (*d*) by the official footnote in the service instructions of 1944 (*NO–227*, *Pros. Ex. 11*); (*e*) by the affidavit of Professor Gebhardt (*Tr. p. 4191*); (*f*) by the expert testimony of Hartleben, and (*g*) by the testimony of Wuerfler (*Tr. pp. 3132*, *3140*, *3142*).

The contention of the prosecution that Professor Handloser as Chief of the Armed Forces Medical Service had the *supervision* of the medical service of the Waffen SS is thereby refuted.

This also invalidates the basic thesis of the prosecution on which is founded the indictment of Professor Handloser, since it has been proved that the Chief of the Armed Forces Medical Services had, in the field of medical research, neither commanding authority nor supervisory powers outside of the scope of military medical inspection.

What has been stated here for the time of the decree of 1942—1 August 1942 until 31 August 1944—applies equally to the time beginning 1 September 1944. The decree of 7 August 1944 (*NO–227, Pros. Ex. 11*) represented an extension of the original development toward coordination, without accomplishing the subordination of the medical chiefs of the branches of the armed forces as requested by the Chief of the Armed Forces Medical Services. What actually was accomplished was a change in the advisory authority he had held up to then, into commanding authority in the sphere of the technical duties to the Chief of the Armed Forces Medical Services.

Professor Handloser has testified under oath (*Handloser 29, Handloser Ex. 4*) and witness Hartleben confirmed the same in his statements that, as has already been pointed out above, nothing was changed as far as the field of research of the branches of the armed forces and of the Waffen SS was concerned. The aim of centralizing the widely separated institutions was wrecked, except in those cases which were solely conditioned by the war after 1 September 1944, particularly also owing to the fact which was brought out in the testimony that in the meantime other offices had taken over the management of the research work in the various fields (1) Reich Research Council, (2) Office for Science and Research, and (3) Society for Military Research.

In conclusion and by way of precaution, I also wish to mention the following for the consideration of the Tribunal in connection with the problem of the commanding authority of Handloser as Chief of the Armed Forces Medical Services:

Supposing for a moment that Professor Handloser had had the power of command, there is nothing that speaks more convincingly for his *exoneration* than the fact that the prosecution has not produced one single document (no order, no regulation, no letter) from which could be deduced that he had made use of his commanding authority in the sense of ordering the performance of an illegal experiment.

In view of the length of time for which he had held the position as Chief of the Armed Forces Medical Services from August 1942 until May 1944, this fact is of *decisive* importance.

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EXTRACT FROM THE CLOSING BRIEF FOR DEFENDANT GENZKEN

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Position and activities

The witness Juettner states the following about his position and his activities (*Genzken 15*, *Genzken Ex. 16*) : "Dr. Genzken's position as Chief of the Medical Office of the Waffen SS was the position of a superior officer of the medical units of the Waffen SS. He was exclusively responsible for their training, the formation of new units and their equipment. He had to find substitutes for casualties in the fighting units."

The Waffen SS itself was newly created in the summer of 1940. At that time it was composed of approximately 580,000 men. (*Tr. p. 3792 ff.*) In addition to that there were about 320,000 casualties, so that there was a total strength of approximately 900,000 men. The official medical care of the whole Waffen SS was in the hands of the defendant Dr. Genzken. At the beginning, the medical personnel of the Waffen SS was about 800 men and at the end approximately 30,000 men. At the beginning, two hospitals were available to the Waffen SS and at the end of the war, sixty. Six hygiene institutes grew out of a single one in Berlin, etc.

Apart from that, the whole extensive medical organization during the war had to be built up by Dr. Genzken from nothing and under the particularly difficult circumstances caused by war which are sufficiently well known to the high Tribunal. The medical inspectorates of the three Wehrmacht branches could refer back to long years of experience, in the case of army and navy even tens of years. This was not the case in the young arm of the Waffen SS.

For this reason alone it is obvious that the scientific research and planning was not included in Dr. Genzken's sphere of work, as he repeatedly emphasized during his presentation of evidence and as he underlined by the presentation of affidavits. (*Genzken 3*, *Genzken Ex. 12; Genzken 5*, *Genzken Ex. 13; Genzken 6*, *Genzken Ex. 10; Genzken 8*, *Genzken Ex. 11; Genzken 9*, *Genzken Ex. 9; Genzken 15*, *Genzken Ex. 16.*)

But Dr. Genzken did not even have the time to concern himself seriously with scientific matters. That was only natural. His most pressing worries were to organize newly the medical services of the Waffen SS as regards personnel and material and to look after it continuously. His position brought with it a considerable responsibility in the whole province of medical services of the Waffen SS by establishing new medical units, equipping of new hospitals so that he had no time left for any other work. It has become absolutely

clear during this trial that scientific research and planning was the task of the Reich Physician SS. May I point out in this connection that all the experiments which were discussed in this trial can be traced back almost without exception to Himmler's and Grawitz' own initiative. Whether they were high altitude and cooling experiments or typhus and sulfanilamide experiments, all of them were started by one of Himmler's or Grawitz' orders. This fact is still more underlined by Document 002–PS, Prosecution Exhibit 39. It is, as it says there literally, concerned with the taking over of research work by the Reich Physician SS, Grawitz. The latter had asked at the end of 1942 that 53 officers be allotted to him for scientific research work. In the whole document, which consists of several reports of the Reich Ministry of Finance and the Reich Physician, the scientific research work in the whole of the medical sphere is mentioned again and again as directed and ordered by the Reich Physician. Even though the application was rejected, later on the lack of typhus vaccine gave, for example, Dr. Grawitz the opportunity to establish, with Himmler's authorization, an experimental station for typhus research in the Buchenwald concentration camp as his first own scientific institute.

Grawitz has also frequently emphasized to the defendant Mrugowsky that he alone was competent for the research and planning tasks in the medical branch within the SS, and that Dr. Genzken had nothing to do with it. (*Genzken 1*, *Genzken Ex. 3.*)

That Dr. Genzken was never interested in the activity and the sphere of work of the Reich Physician, nor even tried to be given these tasks, follows from the fact that in 1941 Himmler chose Dr. Genzken to became Grawitz' successor. When Genzken's superior officer, the Chief of the SS Operational Main Office [Fuehrungshauptamt] Juettner, informed him about this request, he at once rejected it energetically, as he preferred to remain in the medical service of the troops and as he thought himself not suitable for scientific research. (*Genzken 15*, *Genzken Ex. 16.*)

Dr. Genzken during his interrogation gave the Court a detailed description of the entire staff available to him for the completion of his duties. He expressly pointed out that in the entire organization of his medical office, no office for scientific research and planning was scheduled, and that therefore, in fact no such office actually existed. (*Tr. p. 3796.*) This fact is also emphasized by the fact that in the Medical Office of the Waffen SS no group of "consulting physicians" existed as specialists for the various specialized branches of medical science. (*Genzken 18*, *Genzken Ex. 17.*)

Further, at the end of August 1943, important changes in the form of the organization were effected by order of Himmler, so that by way of a clinical and organizational concentration of the entire medical

services of the SS, Dr. Genzken had to turn over his entire pharmaceutical equipment and hygiene institutes, as well as four office chiefs to the office of the Reich Physician SS and Police. Thereby these institutes were under the sole supervision and responsibility of the Reich Physician from this time onwards.

It must be emphasized that Dr. Genzken himself never was in the foreground as a scientist.

During the First World War he was in the navy and concerned with the organization of the medical services for submarines, then he was for 15 years a general practitioner in a small town, was then occupied with organizational duties in the Reichswehr Ministry, and then with similar duties in the Waffen SS; he never held a chair or a professorship and did not have the honorary title of "Professor".

As in the course of the trial the Hygiene Institute of the Waffen SS was often connected with the experiments, may I be allowed to point out the following:

The Hygiene Institute of the Waffen SS was the only one in the home country. It was not only available for the hygienic problems of the Waffen SS, but also for all other organizations of the SS and therewith also for the Reich Physician for his scientific researches. During the dispute between Grawitz and Dr. Genzken before the Chief of the SS Operational Main Office, the fields of authority between the two were again clearly defined and it was expressly pointed out that the institutes and the research equipment were to remain available to the Reich Physician for his research work (*Tr. p. 3789; Genzken 3, Genzken Ex. 12.*).

The Hygiene Institute of the Waffen SS was, for budgetary reasons, subordinate organizationally to the Medical Office of the Waffen SS and therewith to the defendant Dr. Genzken. Despite this, however, Genzken did not have complete and sole authority over the Institute.

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EXTRACTS FROM THE CLOSING BRIEF FOR DEFENDANT BLOME

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What connection have all these facts (concerning deterioration of the standard of the German medical profession) with the defendant Dr. Blome? He was never Chief of the German Medical Service nor was he in charge of higher education. He was merely the deputy of the Reich Chief Physician, and as such his only legitimate task was to direct the medical professional associations. Then again he only served in this capacity as the deputy of Dr. Conti (who has been frequently mentioned here), and he had to work within the limits imposed by Dr. Conti. If the prosecution intends to be fair, it may hold

Dr. Conti responsible for the abuses and mismanagement which occurred. It was he who, as Under Secretary in the Reich Ministry of the Interior, was in charge of the whole federal public health system. He, therefore, was the actual Reich Chief Physician, not Dr. Blome who would never have been indicted at all if Dr. Conti had not committed suicide and a deputy had not been needed, even after his death, to represent him in the dock. From the very beginning Dr. Blome had nothing to do with medical studies. He was only concerned with the doctors after they had completed their studies and training and were subjected to the disciplinary authority of the Reich Chamber of Physicians as licensed physicians. If the medical training was no good, if medical officers were released with insufficient scientific knowledge or with bad or wrong professional ethics, then the professor may be considered responsible for this if their teaching did not reach the required goal. On the other hand perhaps the heads of the clinics were responsible. Perhaps they did not imbue their practitioners and assistants with the proper professional ethics. Whatever the case may have been, one should not merely look around for a scapegoat to shoulder the moral responsibility.

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After all Blome was not consulted in 1935 when the Nuremberg laws against Jewish citizens were enacted, nor in 1938 and the years following when Jewish doctors were gradually prevented from practicing. Blome is in no way responsible for this. These laws were promulgated by the Reich, that is, by the supreme national authority. They were ordered by Reich law and they not only affected the medical profession but also applied to all independent professions and to the entire economic life. They destroyed the economic existence of the Jewish doctor as well as that of the Jewish attorney, author, and businessman. The medical professional organization was not asked at the time whether it agreed to these measures—as a matter of fact, it was only subsequently informed of the Reich laws enacted and consequently was confronted with accomplished facts. If these laws and government orders were crimes against humanity, very well, then the statesmen and the ministers who introduced such laws can be held responsible for them, also the Reichstag deputies who enacted such laws, and the government agencies which published these laws and regarded them as generally binding. But it would be unfair today to try to impose the moral guilt for this development upon a man who was always a mere subordinate executive agent with no independent authority to give orders; a man who always fought against the manifestations of radicalism and tried wherever possible to have the federal laws enforced without harshness. This, for instance, is proved by the affidavit of Dr. Strakosch (*Blome 22*, *Blome Ex. 21*) who himself had two Jewish grandparents and who owed the defendant Blome the preserva-

tion of his economic existence and who can confirm from his own experience that Blome was never one of the fanatical and ruthless types of the Hitler regime. Dr. Strakosch confirmed that Blome always intended to act as a mitigating influence and that Blome was purely an idealist and not an opportunist in his political convictions.

C. Responsibility of Subordinates for Acts Carried Out Under Superior Orders

a. Introduction

Article II 4 (b) of Control Council Law No. 10 states that—"The fact that any person acted pursuant to the order of his government or of a superior does not free him from responsibility for a crime, but may be considered in mitigation." The defendants argued, however, that superior orders freed them from criminal responsibility entirely. They also argued that superior orders to engage in the conduct alleged as criminal constitute a mitigating circumstance.

Extracts from the closing statement of the prosecution on the same point appears on pages 957 to 958. A summation of the evidence on this point by the defense has been taken from the final pleas on behalf of the defendants Brack and Fischer. It appears below on pages 959 to 970. This argumentation is followed by two sections from the testimony of defendants on pages 970 to 974, extracts from the examination of defendant Karl Brandt by Judge Sebring, and an extract from the cross-examination of defendant Rose.

b. Selection from the Argumentation of the Prosecution

EXTRACTS FROM THE CLOSING STATEMENT OF THE PROSECUTION[1]

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The defense of Handloser is a general denial. He says in effect that: I was a soldier. I was in charge of the medical administration of the Wehrmacht, but had no power and no right to issue orders, and that whatever may have happened, I am not responsible for it. It is interesting to note that this defense is very similar to that put forward by Field Marshal Keitel[2] in this courtroom approximately a year ago. He was represented by the same defense counsel. Keitel also said that he could not issue orders. We have already discussed in some detail the position of Handloser, and it has been established beyond a shadow of a doubt that he was the supreme authority in the

[1] Closing statement is recorded in mimeographed transcript, 14 July 1947, pp. 10718–10796.

[2] Defendant before International Military Tribunal. See Trial of the Major War Criminals, Vols. I–XLII, Nuremberg, 1947.

military medical services. We need not stop to consider the practical difference between an order and a directive. We have pointed out that the opportunity and power to control the participation of the military medical services in these crimes was his. The evidence shows that Handloser was connected with a number of criminal medical experiments including the typhus and other vaccine experiments both in Buchenwald and Natzweiler, and the freezing, sulfanilamide, jaundice, gas, and the gas oedema experiments, among others.

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Rudolf Brandt also pleads superior orders in mitigation. There is no evidence that Himmler *ordered* Brandt to participate in any crime. Brandt did so willfully. There is no evidence that Brandt retained his position out of fear. He flourished in it. Nothing would have been easier for him than to be replaced by request or feigned inefficiency. Brandt was not a soldier on the field of battle. His activities were far removed from the confusion of the front lines. He did not act in the spontaneous heat of passion; he had full time to consider and reflect upon his course of action. He continued in his position from 1933 until his arrest by the Allies in 1945, no less than 12 years. This fact alone removes any basis for mitigation. Moreover, assuming that Brandt was ordered to commit the criminal acts which are the subject of this trial, when there is no fear of reprisal for disobedience, obedience represents a voluntary participation in the crime. Such is the case with Rudolf Brandt. Finally the doctrine of superior orders cannot be considered in mitigation where such malignant and numerous crimes have been continuously and ruthlessly committed over a period of many years.

What has been said with respect to Brandt applies equally to the defendant Fischer who also pleads superior orders. He knew at the time he performed these experiments that he was committing a crime. He knew the pain, disfigurement, disability, and risk of death to which his experimental victims would be subjected. He could have refused to participate in the experiments without any fear of consequences. This he admitted in saying, "It was not fear of a death sentence or anything like that, but the choice confronting me was to be obedient or disobedient during war, and thereby set an example, an example of disobedience." (*Tr. p. 4374.*) Such an admission removes any basis for mitigation. A soldier is always faced with the alternative of obeying or disobeying an order. If he knows the order is criminal, it is surely a hollow excuse to say it must be obeyed for the sake of obedience alone.

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c. Selections from the Argumentation of the Defense

*EXTRACT FROM THE FINAL PLEA FOR DEFENDANT BRACK**

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The treatment of the question of responsibility for euthanasia in this room encounters great difficulties insofar as there is not only considerable ignorance of certain peculiarities of the German position in constitutional matters, but above all a great difference between the thinking of continental European and of transatlantic jurists on matters of constitutional statutory law. Law and morals have for centuries been sharply differentiated on the European continent in juristic and above all in legislative thinking in contrast to the states across the ocean. This historical fact must be taken into consideration, for only then can the realization be reached that in a question of *German* constitutional law only that development can be decisive which legal training has had in Germany in deviations from the constitutional law of the Weimar Republic, since the Enabling Act of 24 March 1933 and the Head of the State Law of 1 August 1934.

With these laws Hitler was given all authority as head of the state and chief of the government, in full recognition of the Fuehrer principle which had been in operation for over a year, with approval by the plebiscite of 19 August 1934.

From this time on Hitler incorporated the will of the people, and the resulting functions. He had thus become the Supreme Legislator of the Reich. A concluding resolution of the Reichstag was only the confirmation of his primary declaration of his will.

Among the independent promulgations of laws, which were represented as direct emanations of his authority, the declarations of Hitler's will which were at first called "decrees" and later uniformly "Fuehrer decrees" assumed the most important role. In them the distinction, still customary under the Weimar constitution, between legislative and executive is overcome, as Hitler proclaimed in his Reichstag speech of 30 January 1937 in the words: "There is only one legislative power and one executive."

Therefore the decrees united material law with organizational measures and administrative directives, especially insofar as they were addressed only to a group of persons gathered together in a certain community. Proclamation in the Reich Law Gazette [Reichsgesetzblatt], countersigned by the competent departmental minister, and later the competent chancellery chief, no longer played a decisive role in 1937. The Fuehrer principle was already in full operation at this time. It no longer tolerated the dependence of the authority

*Final plea is recorded in mimeographed transcript, 18 July 1947, pp. 11220–11244.

to promulgate original laws which was granted to the Fuehrer by the plebiscite of 1934 on the observance of formal regulations. The only decisive thing that remained was the fact of the proclamation of the will of the Fuehrer, not its form. Hitler's Decree of 1 September 1939 concerning euthanasia, addressed to Brandt and Bouhler, was therefore in form a legally quite acceptable act of government of the head of the state.

My conclusions from the examination of the development in legal history of the Fuehrer principle in the Third Reich agrees with the testimony of the witnesses Lammers,[1] Engert, and Best. This testimony is underlined by the standpoint of the Reich Minister of Justice Guertner and by Schlegelberger as representatives of supreme Reich authorities, as transmitted to us by Lammers and Engert. Finally, it is affirmed by University Professor Dr. Hermann Jahrreiss, who a few days ago dealt with the questions arising in this connection in great detail and exhaustively in the Justice Case before Military Tribunal III.[2] I may ask the Tribunal in judging this legal question to consider these statements.

Brack was convinced of the legality of this decree on the basis not only of juridical but also other effective indications of much more significant independent steps taken by Hitler in domestic and foreign policy.

Brack's conviction, that of a nonjurist, of the legality of the Fuehrer Decree, based on the explanations and information of his juristic associates and the concurring or at least nondissenting statements of the highest representatives of the Reich justice authorities at the meeting of General Public Prosecutors on 23 April 1941, can therefore not be doubted. (*Brack 36, Brack Ex. 36.*)

Even if one denies the legal validity to the Hitler Decree, though I regard it as valid, Brack committed a legal error at least as far as the particular legal position of Hitler within the state is concerned, under which decree otherwise illegal activities are to be excused. This legal error is sufficient to abolish his guilt or at least the grave guilt of deliberate intent. According to the German law valid at the time, at any rate, this is the case. According to that, a so-called error outside of criminal law—which is indeed the error about the legal validity of the decree of 1 September 1939—excludes the unlawful character which is an essential of the term "deliberate intent".

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[1] Defendant in case of United States *vs.* Ernst von Weizsaecker, et al. See Vols. XII, XIII, XIV.

[2] United States *vs.* Josef Altstoetter, et al. See Vol. III.

*EXTRACTS FROM THE FINAL PLEA FOR DEFENDANT FISCHER**

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Acts committed under orders and in relation to a specific military position

The defendant Fischer participated in the experiments for testing the effect of sulfanilamide upon orders of his medical and military superior Karl Gebhardt. It is recognized in the penal code of all civilized nations that action upon orders represents a reason of exemption from guilt, even if the order itself is contrary to law, but binding for the subordinate. In examining this legal question, one proceeds from the principle that the court disregards the reasons of justification and exemption from guilt put forward by me in the case of the defendant Karl Gebhardt and considers that both the order given to the defendant Karl Gebhardt himself, as also the passing on of this order to the defendant Fritz Fischer, are contrary to law.

The adherence to a binding order, even though it be contrary to law, on the part of the subordinate creates for him a *reason of exemption from guilt and, therefore, renders him also exempt from punishment.* This question is disputed only insofar as some consider the action of the subordinate not only excused but even "justified." Further examination of this question at issue seems, however, not necessary in these proceedings, since the result is the same in both cases, namely, the perpetrator's exemption from punishment.

The *decisive question* in the case on hand therefore is whether and to what extent the "order" for the sulfanilamide experiments was *binding* for the persons carrying it out.

In view of the fact that, in principle, the law in force at the time is applicable, as the defendants lived under this law and it was binding for them, the question is, therefore, to be examined within the framework of Article 47 of the German Military Penal Code. According to this provision, a subordinate who obeys is liable to be "punished as an accessory if it is known to him that the order given by the superior concerned an act which has for its purpose to commit a general or military crime or offense."

However, it is not correct, as is sometimes accepted, that Article 47 of the German Military Code itself settles the question in how far military orders are either binding or not binding. This is a question of public and administrative law. But it must always concern an "order regarding service matters," the same as in other military conditions, that is to say, something which "pertains to military service." These assumptions are immediately present both in the case

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*Final plea is recorded in mimeographed transcript, 16 July 1947, pp. 10922–10941.

of the defendant Karl Gebhardt and in that of the defendant Fritz Fischer. Both were medical officers of the Waffen SS, therefore a unit of the German Wehrmacht in which especially the principle of obedience was strongly pronounced. Karl Gebhardt was Fritz Fischer's immediate superior; in matters of duty, his order to assist with the medical experiments to be undertaken was a binding order for the young medical officer Fischer.

In the investigation of the legal questions resulting from these circumstances, we will separate the case of the defendant Karl Gebhardt, where the "order" was issued from a very high authority, namely, from the Head of the State and the Commander in Chief of the Wehrmacht, from the case of the defendant Fritz Fischer, in which there is a question of an especially close relationship to his immediate military superior. Later, I will return especially to the general questions of public law concerning the command of the Fuehrer.

The evidence has shown that the order for testing the effectiveness of sulfanilamide emanated from the highest authority, namely, from the Commander in Chief of the Wehrmacht personally. The reasons of justification of the probable acceptance of the wartime state of emergency and the balancing of interests, as discussed fully already in the investigation of the case of the defendant Karl Gebhardt, gain importance independently first in the person of the defendant Fritz Fischer. But they have influence, of course, on the legality or illegality of the order. The investigation of this question has shown that the given order as such was *legal.* Even if one would not want to take this for granted, however, for a subordinate even an illegal order of *a binding* nature is of moment.

Article 47 of the German Military Penal Code, as already observed, lets the punishment of the subordinate stand, if "it was known" to the latter that the order of the superior "concerned an act which had for its purpose to commit a general or military crime or offense." In all other cases the punishment touches *only* the commanding superior.

Just as in most military courts of other armies, the judicial practice concerning Article 47 of the German Military Penal Code also shows the tendency to a vast limitation of the penal responsibility of the subordinate. That this tendency has grown from the purpose "of guaranteeing the performance of the duty of obedience obligatory to the subordinate, in the interest of military discipline and the Wehrmacht's constant readiness for battle," changes nothing in the fact as such. Here it is a matter of evaluating the *legal position at the time the act was committed.*

Article 47 of the German Military Penal Code establishes a penal responsibility on the part of the subordinate only if it was *known* to him that the order concerned an act *the purpose* of which was a crime or an offense. German judicial practice demands in addition a *definite*

knowledge on the part of the acting subordinate; accordingly, cases of mere doubt (conditional intent) or mere obligation to know (negligence) are expressly excluded. Neither is the idea satisfactory that the performance of the order resulted objectively in the committing of a crime or an offense. On the contrary, the superior must have *intended* this and this fact must have been *known* to the subordinate.

In applying these principles, there cannot be any doubt that these suppositions were not fulfilled either in the case of the defendant Karl Gebhardt, or in the case of the defendant Fritz Fischer—to say nothing at all of the defendant Herta Oberheuser. Both of these defendants regarded the order given them by the Head of the State as a measure of war which was conditioned by special circumstances caused by the war itself, and by means of which a question should be answered which was of decisive importance not only for the wounded, but beyond that, should furnish a contribution in the struggle for the foundations of life of the German people and for the existence of the Reich. Both defendants were convinced at that time that the order given them should have any other *purpose* but the committing of a punishable act.

Then, in regard to the particular position of the defendant Fritz Fischer, the meaning of an order of the *immediate military superior* is to be investigated. At the beginning of the experiments, the defendant Fritz Fischer had the rank of a first lieutenant. He took part in the experiments at the direct command of his military and medical superior who held the rank of general. In view of the surpassing authority of the defendant Karl Gebhardt, as surgeon and Chief of the Hohenlychen Clinic and in view of his high military position, a refusal was completely out of the question.

On principle, no other points of view but those already discussed apply here either. Whether the order is a direct or an indirect one offers no reason for difference. In the case of the defendant Fritz Fischer, however, the following is still to be considered: whether it *was known, etc.*, to the subordinate is always to be especially examined according to the *special circumstances of the moment.* At the same time, of course, a decisive part is played by the fact that the order for these experiments was given to the defendant Fritz Fischer, not by a military superior who would not have been in a position or duly qualified to give an *expert* decision of this question, but by a person who not only occupied a high military rank, but beyond that had just that particular experience in the sphere in which the experiments were to be carried out. The defendant Karl Gebhardt was not only a recognized and leading German surgeon, but he had also as consulting surgeon to the Waffen SS and as chief of a surgical reserve combat unit acquired special experience in the sphere of combat surgery and in the treatment of the bacteriological infection of wounds. The

reason for this order given to the defendant Fritz Fischer by his chief must have affected him all the more convincingly, as it coincided exactly with the experience which the defendant Fritz Fischer himself had gained as medical officer with the First SS Armored Division in Russia.

In addition, there was the special framework in which all this took place. Fritz Fischer had been released from the combat unit on account of serious illness and had been ordered to the Hohenlychen Clinic. He was under the immediate impression of hard experience at the front. In Hohenlychen he found himself in a clinic which operated in peacetime conditions under the energetic direction of a man extraordinarily gifted in organizational and scientific matters. Every building, every installation of this recognized model institute, the numerous clinical innovations and modern methods of treatment, every one of the many successful treatments of Hohenlychen was inseparably bound up with the name of the chief physician Karl Gebhardt and gave unconditional and unlimited value to his word and his authority in his entire environment.

For all these reasons, the defendant Fritz Fischer could have had no doubt at all but that the performance of the order given him was from the medical standpoint a requisite and permissible war measure. Precisely the open carrying-out of the individual experimental measures, with the exclusion of every duty of secrecy, as well as the report of the results which was provided for in advance and also executed before a critical forum of the highest military physicians, were especially suited to nip in the bud any distrust of the justification of these experiments in the mind of the defendant Fritz Fischer.

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As Fritz Fischer strictly adhered to the part-orders given to him and did not show any initiative of his own, it excludes him moreover from any responsibility concerning questions which were outside his sphere of action. It is impossible to make Fritz Fischer responsible for questions connected with the legal and medical preparation of the directives for the experiments and the cosmetic after-treatment. Apart from this viewpoint, the special conditions of *public law* which existed in Germany at the time of the action ought to be mentioned. They were explained by Professor Jahrreiss in his opening speech before the International Military Tribunal in the proceedings against Hermann Goering and others.* Professor Jahrreiss thereby represented the following point of view:

"State orders, whether they lay down rules or decide individual cases, can always be measured against the existing written and unwritten law, but also against the rules of international law, morals,

*Trial of the Major War Criminals, vol. XVII, pp. 458–494, Nuremberg, 1948.

and religion. Someone, even if only the conscience of the person giving the orders, is always asking: Has the person giving the order ordered something which he had no right to order? Or has he formed and published his order by an inadmissible procedure? But an unavoidable problem for all governmental systems lies in this: Should or can it grant the members of its hierarchy, its officials and officers, the right—or even impose on them the duty—to examine at any time any order which demands obedience from them, to determine whether it is lawful, and to decide accordingly whether to obey or refuse? *No governmental system which has appeared in history to date has given an affirmative answer to this question.* Only certain members of the hierarchy were ever granted this right; and they were not granted it without limits. This was also the case, for instance, under the extremely democratic constitution of the German Reich during the Weimar Republic and is so today under the occupation rule of the four great powers over Germany.

"*In as far as such a right of examinations is not granted to members of the hierarchy, the order has legal force for them.*

"All constitutional law, that of modern states as well, knows acts of state which must be respected by the authorities even when they are defective. Certain acts of laying down rules, certain decisions on individual cases which have received legal force, are valid even when the person giving the order has exceeded his competence or has made a mistake in form.

"If only because the process of going back to a still higher order must finally come to an end, orders must exist under every government that are binding on the members of the hierarchy under all circumstances and are therefore law where the officials are concerned, even if outsiders may see that they are defective as regard content or form * * *.

"* * * The result of the development in the Reich of Hitler was at any rate that Hitler became the supreme legislator as well as the supreme author of individual orders. It was not least of all under the impression of the surprising successes, or what were considered successes in Germany and abroad, above all during the course of this war, that he became this. Perhaps the German people are—even though with great differences between north and south, west and east—particularly easily subjected to actual power, particularly easily led by orders, particularly used to the idea of a superior. Thus the whole process may have been made easier.

"Finally the only thing that was not quite clear was Hitler's relationship to the judiciary. For, even in Hitler-Germany, it was not possible to kill the idea that it was essential to allow justice to be exercised by independent courts, at least in matters which con-

cern the wide masses in their everyday life. Up to the highest group of Party officials—this has been shown by some of the speeches of the Reich Justice Leader, the defendant Dr. Frank, which were submitted here—there was resistance, which was actually not very successful, when justice in civil and ordinary criminal cases was also to be forced into the "*sic jubeo*" of the one man. But, apart from the judiciary, which was actually also tottering, absolute monocracy was complete. The Reichstag's pompous declaration about Hitler's legal position, dated 26 April 1942, was actually only the statement of what had become practice long before.

"The Fuehrer's orders were law already a considerable time before this Second World War.

"In this state order of his, the German Reich was treated as a partner by the other states, and this in the whole field of politics. In this connection I do not wish to stress the way (so impressive to the German people and so fatal to all opposition) in which this took place in 1936 at the Olympic Games, a show which Hitler could not order the delegations of foreign nations to attend, as he ordered Germans to the Nuernberg Party Rally in the case of his state-shows. I should like rather only to point out that the governments of the greatest nations in the world considered the word of this "almighty" man the final decision, incontestably valid for every German, and based their decisions on major questions on the fact that Hitler's order was incontestably valid. To mention only the most striking cases, this fact was relied upon when the British Prime Minister, Neville Chamberlain, after the Munich Conference, displayed the famous peace paper when he landed at Croydon. This fact was adhered to when people went to war against the Reich as the barbarous despotism of this one man.

"No political system has yet pleased all people who live under it or who feel its effects abroad. The German political system in the Hitler era displeased a particularly large and ever-increasing number of people at home and abroad.

"But that does not in any way alter the fact that it existed, not lastly because of the recognition from abroad and because of its effectiveness, which caused a British Prime Minister to make the now world-famous statement at a critical period, that democracies need two years longer than the totalitarian governments to attain a certain goal. Only one who has lived as if expelled from among his own people, amidst blindly believing masses who idolized this man as infallible, knows how firmly Hitler's power was anchored in the anonymous and innumerable following who believed him capable only of doing what was good and right. They did not know him personally, he was for them what propaganda made of

him, but this he was so uncompromisingly that everybody who saw him from close-to and saw otherwise, knew clearly that resistance was absolutely useless and, in the eyes of other people, was not even martyrdom.

"Would it therefore not be a self-contradictory proceeding if *both* the following assertions were to be realized at the same time in the rules of this trial? * * *

"* * * The functionaries had neither the right nor the duty to examine the orders of the monocrat to determine their legality. For them these orders could not be illegal at all, with one exception which will be discussed later—an exception which, if carefully examined, is seen to be only an apparent one—namely with the exception of cases in which the monocrat placed himself, according to the indisputable values of our times, outside every human order, and in which a real question of right or wrong was not put at all and thus a real examination was not demanded.

"Hitler's will was the ultimate authority for their considerations on what to do and what not to do. The Fuehrer's order cut off every discussion. Therefore, a person who, as a functionary of the hierarchy refers to an order of the Fuehrer's, is not trying to provide a ground for being exempted from punishment for an illegal action, but he denies the assertion that his conduct is illegal; for the order which he complied with was legally unassailable.

"Only a person who has understood this can have a conception of the difficult inner struggles which so many German officials had to fight out in these years in face of many a decree or resolution of Hitler's. For them such cases were not a question of a conflict between right and wrong: Disputes about legality sank into insignificance. For them the problem was one of legitimacy; as time went on, human and divine law opposed each other ever more strongly and more frequently.

"Therefore, whatever the Charter understands by the orders which it sets aside as a ground for exemption from punishment, can the Fuehrer's order be meant by this? Can it come within the meaning of this rule? Must one not accept this order for what it was according to the interior German constitution as it had developed, a constitution which had been explicitly or implicitly recognized by the community of states? * * *

"* * * The one supreme will became, quite simply, technically indispensable. It became the mechanical connecting link for the whole. A functionary who met with objections or even resistance to one of his orders from other functionaries only needed to refer to an order of the Fuehrer's to get his way. For this reason many, very many, among those Germans who felt Hitler's regime to be intolerable, who indeed hated him like the devil, looked ahead only

with the greatest anxiety to the time when this man would disappear from the scene; for what would happen when this connecting link disappeared? It was a vicious circle.

"I repeat: *An order of the Fuehrer's was binding—and indeed legally binding—on the person to whom it was given, even if the directive was contrary to international law or to other traditional values.*"

So much for the statements of Professor Jahrreiss before the International Military Tribunal. The development presented here seems to be particularly relevant for the case of the defendant Fischer, since he himself in the witness box described his attitude towards the Fuehrer's command in a way which, because of his very youth, his idealistic conception of life and duty and his manly confession, was particularly convincing.

It is true that in the face of all this, reference will be made to Article 8 of the Charter for the International Military Tribunal which reads: "The fact that the defendant acted pursuant to order of his Government or of a superior shall not free him from responsibility, but may be considered in mitigation of punishment if the Tribunal determines that justice so requires."

Accordingly, Law No. 10 of the Control Council, Article II, paragraph 4 reads—

"(*b*) The fact that any person acted pursuant to the orders of his government or of a superior does not free him from responsibility for a crime, but may be considered in mitigation."

In the face of this objection the following is to be pointed out:

At the time of their actions the defendants were subject to *German* law according to which the degree of their responsibility was determined and, even today, must justly be referred back to *that moment.* The following should be emphasized, however, in case the Tribunal should not apply the legal provisions in force at the time of the act, but should base its judgment on Law No. 10 of the Control Council, though it represents a manifest violation of the prohibition of retroactive application of penal laws.

Even from the above-named provision of the Law of the Control Council, the principle cannot be derived that every command of a superior should, under the aspect of Penal Law, be *irrelevant* under all circumstances. This also applies to the problem of the exemption from responsibility and exemption from penalty. The provision only states that the existence of such a command *in itself* does not exempt one from the responsibility for a crime; it does not, however, preclude by any means that in connection with other facts it may be relevant for this problem as well.

The guiding legal aspect underlying these deliberations is contained in the concept of the so-called conflict of duties which has been repeatedly mentioned before. This aspect does not coincide *eo ipso* with the "*objective*" principle of balancing interests, as discussed in examining the case of the defendant Karl Gebhardt. In addition one must insist on consideration of the "*subjective*" position of the person committing the act.

In other words, in order to arrive at a *just* appreciation of the case, the *personal situation of the person committing the act at the moment of its being committed* will have to be weighed up as well. This applies particularly to the personal situation into which the person committing the act has been put by reason of a higher command which is binding for him and influences him. *Besides* the general "objective" principles of balancing interests, such a special "subjective" state of coercion can and must therefore be considered in his favor also. A "command" can, therefore, according to the concrete situation, shift the boundaries of culpability further in his favor.

Reinhardt Frank, the great German criminologist, has with regard to the problem of the so-called conflict of duties established the maxim, "In as far as the conflict of duties has not been expressly regulated the maxim should prevail that the higher, the more significant, the more important duty is to be fulfilled at the expense of the less high one and that, therefore, omission to fulfill the latter one is not contrary to law."

With good reason it has always been emphasized that in such a situation of conflict of diversified duties the decision is, in the end, not to be found in positive law, but it is of an *ethical nature*. That is why, in such a situation, a certain leeway must be left to the personal conscience; it is not possible here to arrive at everything through the coarse means of an outward penal provision. This completely "personal" character of genuine ethical conflicts has also been fully recognized and emphasized in the authoritative philosophical literature. Nicholai Hartmann, Ethics (2d Edition, 1935, pp. 421–422) says for instance, with regard to genuine conflicts of values:

> "It is a fateful error to believe that such problems can be solved on principle in theory. There are border-line cases in which the conflict in conscience is grave enough to require a different solution according to the particular ethos of the person. For it lies in the very nature of such conflicts that values are balanced, and that it is not possible to emerge from them without becoming guilty. Accordingly, a man in this situation cannot help making a decision. A person faced with this serious conflict, incurring such a measure of responsibility, ought to decide this—

"To follow the dictates of his conscience to the best of his ability, that is, according to his own live sense of the level of values and accept the consequences."

No further argument should be needed for demonstrating that just from an *ethical* point of view measuring of such *personal* decisions by standards of *penal law* is out of the question.

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d. Evidence

Testimony

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EXTRACTS FROM THE TESTIMONY OF DEFENDANT KARL BRANDT*

EXAMINATION

* * * * * * *

JUDGE SEBRING: * * * Witness, for the sake of clarification, let us assume that it would have been highly important to the Wehrmacht to ascertain, as a matter of fact, how long a human being could withstand exposure to cold before succumbing to the effects of it. Do you understand that? Let's assume secondly that human subjects were selected for such freezing experiments without their consent. Let's assume thirdly that such involuntary human subjects were subjected to the experiments and died as a direct or indirect result thereof. Now, would you be good enough to inform the Tribunal what your view of such an experiment is—either from the legal or from the ethical point of view?

DEFENDANT KARL BRANDT: I must repeat once more, in order to make sure that I understood you correctly. When assigning the experiment the following things are assumed: highest military necessity, involuntary nature of the experiment, and the danger of the experiment with eventual fatality. In this case I am of the opinion that, when considering the circumstances of the situation of the war, this state institution which has laid down the importance in the interest of the state at the same time takes the responsibility away from the physician if such an experiment ends fatally and such a responsibility has to be taken by the state.

Q. Now, does it take away that responsibility from the physician, in your view, or does it share that responsibility jointly with the physician, in your view?

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*Complete testimony is recorded in mimeographed transcript, 3, 4, 5, 6, 7 Feb. 1947, pp. 2301–2661.

A. In my view, this responsibility is taken away from the physician because, from that moment on, the physician is merely an instrument maybe in the same sense as in the case of an officer who receives an order at the front and leads a group of three or four soldiers into a position where they are certain to meet death. That position, if I apply it to German conditions during the war, is in principle the same. I don't believe that the physician as such, from his ethical and moral feelings, would carry out such an experiment without this assurance of the authoritarian state which gives him a formal and legal assurance on one side and, on the other side, gives him the order for the execution. Naturally, in this case, it is a theoretical question since I cannot survey the position in the case of the freezing experiment. I don't know how this assurance was given and how the order was given. Basically, I want to differentiate between the order for an experiment which arises from medical needs as such and where, under the circumstances, the state only has a secondary interest on the basis of medical initiatives, and I would differentiate between the reverse state of affairs where the state uses medical activities.

Q. The Tribunal has one further question of interest.

In your view, would an order which authorized or directed a subordinate medical officer or subordinate medical group to carry on a certain medical experiment—let us assume for the moment this freezing experiment—we have then a general order, let us assume, directing a certain institute to carry on freezing experiments without delineating or specifying in detail the exact course of those experiments. Would you conceive that such an order would authorize the medical officer to whom the order was addressed to select subjects involuntarily and subject them to experiments, the execution of which that officer absolutely knew or should have known would likely result in death to the subject?

A. May I have your last sentence repeated, please? This question is extremely difficult to answer. The order given in such a case has to be taken into consideration. May I, perhaps, answer with an example of such an order. If Himmler gives an order to a Dr. "X" and tells him to carry out a certain experiment, then it is possible that Dr. "X" did not wish to comply with this order. In such a case, however, Dr. "X" will not have overlooked the importance of the experiment itself, the same way as the lieutenant who received a certain military order—and we are here concerned with a military order—does not overlook that he would have to hold out with a group of eight men at a bridgehead and that this would end in his death. In spite of that, this officer with his eight men to whom he passed this order on would meet their death at that position. So this physician "X" who received this order from Himmler would under the circumstances

have to carry out an experiment without being able to judge the validity of the reasons which prompted a central agency.

If a physician had not carried out that experiment, he would have got into a position where he would be called to account if he had not carried out that experiment. In this case, and there we have to consider the authoritarian nature of our state, the personal feeling and the feeling of a special professional, ethical obligation has to subordinate itself to the totalitarian nature of the war.

I must say once more, these are theoretical assumptions which I am expressing here. At the same time I could express how difficult such decisions are if I refer to an example which recently was quoted here, and I mean the eight hundred inmates in a prison in America who were infected with malaria. I don't want to refer to this example in order to justify the experiments which are under indictment here, but I want to express that the question of the importance of an experiment is, and remains, basically of decisive importance. Even there a certain number of fatalities had to be expected from the start when infecting eight hundred people with malaria.

The voluntary attitude which an inmate adopts and with which an inmate makes himself available is a relatively voluntary agreement. I don't think it would be the same if one were to receive a voluntary agreement from people who are present here. One has to consider the nature of the voluntary agreement. In my opinion, this round figure of eight hundred speaks against the voluntary agreement of all. I would assume that if it was seven hundred and thirty-five or seven hundred and forty, it would be different, but the round figure of eight hundred seems to indicate that there was a certain order for the experiment before the beginning of the experiment, and these experiments, too, were directed from the point of view of a superior state interest, and this superior state interest, at the same time, takes over the responsibility for the result of the experiment with reference to the experimental subject. For responsibility in a medical sense cannot be assumed at all since even a negative series of experiments speaks against the urgency and necessity of these experiments; and particularly when answering the question about voluntary or involuntary, dangerous or nondangerous natures, it is very difficult and almost impossible to say basically with reference to experiments that experiments on human beings, taking all these things into consideration, are a crime or are not a crime. The question can only be judged when over and above the expected result experiments are still continued. If a result has been established and further experiments on human beings are then carried out, they are not important, and the experiment which is not important is only a dilettante experiment. In that case I would from the start assume the word "criminal," but when dealing with important experiments, it is necessary to take into consideration all

the circumstances which played a part at that time; that is to say, the important experiments, from the moment a result is achieved, become unimportant. From that moment on, in my opinion, the experiment is criminal. Therefore, that when speaking about human experiments at all, one must put the results at the disposal of the state—not only to one state but internationally—so that experiments which are carried out in Russia and which had shown results would not be continued in other countries.

With reference to freezing experiments, I can only say that in a certain form, without saying "criminal" or "not criminal," they showed their value. The indication for that is that the results in the American Air Force were considered as something extraordinary and helped the American Air Force to gain years, and I think that these experiments would also be of use in mines, where a number of fatalities occur because of freezing. If you consider the freezing experiments in that light, the victims in effect are tragic and are to be regretted, but with reference to subsequent periods these victims are a real sacrifice, for hundreds, or maybe thousands of people might save or prolong their lives because of it.

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Q. Dr. Brandt, is it not true that in any military organization, even one of an authoritarian state, there comes a point beyond which the officer receiving an order subjects himself to individual responsibility, at least in the eyes of civilized society, for carrying out any military orders, particularly if the order is unlawful or transcends the limit of extreme military necessity?

A. There was a general law stating that an officer does not have to carry out an order which he realizes is a crime, but the question with reference to these various experiments is whether the man concerned can realize that what he is doing is a crime. If he can realize it, then, in my opinion, he cannot comply with the order.

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EXTRACT FROM THE TESTIMONY OF DEFENDANT ROSE*

CROSS-EXAMINATION

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MR. MCHANEY: And you suggested and asked him [defendant Mrugowsky] to carry out experiments with Copenhagen vaccine in the typhus experiments in Buchenwald, didn't you?

DEFENDANT ROSE: I was asking whether there was still a possibility of carrying out such a series of experiments. That is quite under-

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*Complete testimony is recorded in mimeographed transcript, 18, 21, 22, 23, 24, 25 Apr. 1947, pp. 6081–6484.

standable, considering the situation, because one can see from my report of 29 May 1943, that this seemed to constitute a considerable advance on the experiments already made on animals. I knew that such experiments had been carried out earlier, although I basically objected to these experiments. This institution had been set up in Germany and was approved by the state and covered by the state. At that moment I was in a position which might correspond to that of a lawyer who is, perhaps, a basic opponent of capital punishment. On occasions when he is dealing with leading members of the government or with lawyers during public congresses or meetings, he will do everything in his power to maintain his opinion on the subject and have it put into effect. If, however, he does not succeed, he stays in his profession and in his environment in spite of this. Under certain circumstances he may perhaps even be forced to pronounce such a death sentence himself, although he is basically an opponent of the principle. Of course, it does not go as far as this in my case. I am only in touch with people of whom I assume that they somehow are included in the official channels of such an institution, which I disapprove of basically, and which I want to see removed.

Q. Professor, six persons died in this experiment with the Copenhagen vaccine, didn't they?

A. Yes. They were six people who were furnished by the Reich Criminal Police Office through ordinary channels as determined by competent agencies.

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D. Status of Occupied Poland Under International Law

a. Introduction

The defense argued that Poland lost its sovereignty as a result of the complete occupation of Polish territory and the cessation of Polish military resistance in September 1939 and held that in consequence Germany could treat Polish nationals according to German law. An extract from the closing statement of the prosecution on this point appears on page 975. The argument, that international law concerning belligerent occupation was thus not applicable to the treatment of Polish nationals, appears in the extracts from the final plea for defendant Gebhardt on pages 976 to 979.

b. Selection from the Argumentation of the Prosecution

EXTRACT FROM THE CLOSING STATEMENT OF THE PROSECUTION[1]

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In the case of some of the defendants, and this is especially true with respect to Gebhardt, Fischer, and Oberheuser in connection with the sulfanilamide experiments, it is to be expected that the argument will be made that crimes against Polish, and perhaps also Czech nationals, do not constitute war crimes within the meaning of Control Council Law No. 10. This argument is based upon the proposition that Germany was no longer bound by the rules of land warfare in many of the territories occupied during the war because Germany had completely subjugated those countries and incorporated them into the German Reich, and therefore Germany had the authority to deal with the occupied countries as though they were part of Germany. Thus, the defense placed in evidence the Russo-German Boundary and Friendship Treaty of 28 September 1939 as well as certain German decrees concerning the administration of occupied Poland. (*Gebhardt 14, Gebhardt Ex. 13; Gebhardt 15, Gebhardt Ex. 14; Gebhardt 16, Gebhardt Ex. 15.*) Without stopping to argue the point that that part of Poland administered by the so-called General Government, from which the Polish subjects for the sulfanilamide experiments came, was never incorporated into the Reich, it will be sufficient to point out that this argument was disposed of by the International Military Tribunal. In its judgment, the following was said:[2]

> "In the view of the Tribunal, it is unnecessary in this case to decide whether this doctrine of subjugation, dependent as it is upon military conquest, has any application where the subjugation is the result of the crime of aggressive war. The doctrine was never considered to be applicable so long as there was an army in the field attempting to restore the occupied countries to their true owners, and in this case, therefore, the doctrine could not apply to any territories occupied after 1 September 1939."

The argument also has no validity with respect to Czech nationals. The International Military Tribunal said that:

> "As to war crimes committed in Bohemia and Moravia, it is a sufficient answer that these territories were never added to the Reich, but a mere protectorate was established over them."[3]

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[1] Closing statement is recorded in mimeographed transcript, 14 July 1947, pp. 10718–10796.

[2] Trial of the Major War Criminals, vol. I, p. 254, Nuremberg, 1947.

[3] [Ibid.]

c. Selection from the Argumentation of the Defense

EXTRACT FROM THE FINAL PLEA FOR DEFENDANT GEBHARDT *

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The Legal Status of the Experimental Subjects

"Inmates of the Ravensbrueck concentration camp who had been sentenced to death by German courts martial in the General Government as members of the Polish Resistance Movement were employed as experimental subjects (in the sulfanilamide experiments)." The witnesses questioned in Court and all experimental subjects from whom the prosecution has submitted affidavits have openly professed their membership of the Resistance Movement and it must be added that some of them exercised relatively important functions in the Resistance Movement. If the legal status of the experimental subjects at the time of their activity in the Resistance Movement is examined, the result will be as follows:

LEGAL STATUS OF POLAND

The former Polish State ceased to exist as an independent subject from the point of view of international law at the latest on 28 September 1939. After the entire area of the former Polish State had been occupied by the German armies and the troops of the Soviet Union, and the Polish Government had gone into Romanian territory under pressure of the invasion of the Red Army on 17 September 1939, the two occupational powers decided to carry out a plan previously agreed upon which was to settle all matters concerning the territory of the former Polish State without interference by any other powers. This was brought about by the German-Soviet Boundary and Friendship Pact of 28 September 1939. (*Gebhardt 14, Gebhardt Ex. 13.*) I refer to the contents of the pact for particulars. It was on this day, at the very latest, that Poland ceased to exist as a sovereign state and as bearer of rights and duties. Due to war, the former Polish State ceased to exist as a state and therewith as a subject from the point of view of international law.

The territory of the former Polish State, insofar as it fell within the sphere of Soviet interests, became part of the U. S. S. R., to which it still belongs today.

The Polish territory, which fell into the German sphere of interests and which is designated in detail in the Supplementary Protocol to the German-Soviet Boundary and Friendship Pact, became either part of the German Reich or—and this concerned the larger part of

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*Final plea is recorded in mimeographed transcript, 15 July 1947, pp. 10874–10911.

the area—was made into an independent borderland of the German Reich under the designation General Government. The constitutional laws governing this territory were based on the Decree for the Administration of the Occupied Polish Territory issued on 12 October 1939 by the Fuehrer and Reich Chancellor. I have presented the decree to the Tribunal as Document Gebhardt 15, Gebhardt Exhibit 14. Article 4 of this decree states that Polish law was to continue to be valid insofar as it was not at variance with the taking over of the administration by the German Reich. Article 5 gives the Governor General the right to issue laws by ordinance for the territory under his administration.

Corresponding to the generally acknowledged principles of international law the ordinances issued by the Governor General were binding for the population of this territory. This is especially true of the Ordinance for Combating Deeds of Violence in the General Government, which was issued on 31 October 1939 (Ordinance Gazette for the General Government, page 10), and which also laid the foundation for the competence of the courts martial. This ordinance had become necessary because the military government, which had been active until 26 October 1939, ceased to exist when the Fuehrer Decree of 12 October 1939 became valid.

In this connection, the following reply must be made to the objection of the prosecution in their final plea on the morning of the 14th.

First: No Polish Government was in existence when these experimental subjects were working for the Resistance Movement in 1940 and 1941. The Polish Government had ceased to exist as an independent subject under international law. The government in exile in London under General Sikorski and the government in Lublin were only subsequently recognized by the Western Allies.

Second: When the experimental subjects were working for the Resistance Movement in 1940, no Polish Army in combat existed.

Third: The prosecution seems to have endeavored to express that this Military Tribunal should not primarily apply territorial penal law but the principles of international law. For this very reason the prosecution pointed out that the jurisdiction and the judicial authority within the General Government were the consequence of an aggressive war and could not, therefore, be legally recognized. This concept does not apply. It must first be pointed out that the principles of international law, which have the function to regulate legal issues during war, make no distinction between an aggressive war, a defensive war, or a justified war. This is particularly stated in the Fourth Hague Convention of 1907, the so-called Hague Land Warfare Convention.

The objection of the prosecution is not justified for another reason. The evidence before the IMT showed that the attack on Poland was

carried out by Germany in at least the same manner as it was carried out by the U.S.S.R., and that this becomes quite evident from the contents of the German-Soviet secret treaty of 23 August 1939. Nevertheless the U.S.A. did not hesitate to recognize the territorial claims made by the U.S.S.R. in the area of the former Polish State. This recognition took place *de facto* as well as *de jure* during the Yalta Conference in February 1945 and the Potsdam Conference on 2 August 1945.

The prosecution cannot therefore object today to this state of affairs as far as the legal issues arising from this attack are concerned.

The Ordinance for Combating Acts of Violence in the General Government and the introduction of the courts martial connected with it would, by the way, have been permissible, even if though the former Polish State had not ceased to exist as a subject in the realm of international law. Military occupation of foreign states (*occupatio bellica*), too, gives the occupying power the right to take all the measures necessary for the maintenance of order and safety. It is a generally acknowledged legal conception that in this case the occupying power takes over the power of the conquered state, not as its deputy, but rather by authority of its own laws guaranteed by international law. The right is expressly acknowledged in the third section of the Hague Convention for Land Warfare [Section III, Annex to the Convention]. There can be no doubt that the introduction of courts martial is one of these rights of the occupying power. In fact it seems inconceivable that an occupying power should not be allowed to take measures for the effective combating of a resistance movement, whose sole and openly admitted purpose it was to undermine and destroy the authority of the occupying power and the safety of the occupation troops. The right to do this can be contested even less in our case, since with the outbreak of the German-Soviet war, the territory of the former General Government became the largest military transit area which has ever existed in the history of war. The methods by which the Polish Resistance Movement tried to attain its goals do not need to be examined here in detail. It is sufficient to point out that the Resistance Movement was in a position to interfere to a considerable extent with German Army reinforcements against the Red Army; this interference took the form of blasting of bridges, transmission of important military information, etc. The Polish women used for the sulfanilamide experiments were members of this Resistance Movement and they supported it wherever they could. However much we respect the courage and patriotism of these women, we cannot refrain from emphasizing the fact that they violated laws which at that time were binding for them. This violation gave the occupation power the right to impose adequate punishment upon them. It seems unthinkable that the members of a resistance movement such as the Polish one would not have been sentenced to death during the war for their

esistance activities by any other state which found itself in a position similar to that of Germany at that time. Latest developments show hat the occupation powers in Germany now do not hesitate to impose he most severe penalties in similar cases.

For example, the American Military Government for Germany in ts Ordinance No. 1, which was issued to insure the safety of the Allied Armed Forces and to reestablish public order in the territory ccupied by them, lists, among others, the following acts as crimes unishable by death:

Communication of information which may be dangerous to the security or property of the Allied Forces, or unauthorized possession of such information without promptly reporting it; and unauthorized communication by code or cipher;

Interference with transportation or communication or the operation of any public service or utility;

Any other violation of the laws of war or act in aid of the enemy or endangering the security of the Allied Forces.

A comparison of these regulations with the contents of the court artial regulations of the Governor General for the Occupied Polish erritories, presented in Document Book II for the defendant Gebardt, shows clearly that here generally the same facts were declared o be punishable with the death sentence.

In order to exclude any doubts with regard to the legal status of the xperimental subjects, it may be pointed out in conclusion that the embers of the Polish Resistance Movements, at least when the prisonrs belonged to these movements, did not fulfill the conditions of rticle I of the Hague Convention for Land Warfare of 1907 [Section , Chapter I, Annex to the Convention] concerning militia and volunary corps not affiliated with the army and having a certain military rganization. The Polish Resistance Movement at that time (1) had o leader who was ostensibly at its head and responsible for the conuct of the members; (2) it wore no particular badge recognizable from distance; (3) it did not wear its arms openly; and finally, (4) in its onduct of war it disregarded the laws and practices of war. In view f these facts the members of the Resistance Movement could not have een treated as prisoners of war even if at that time a Polish Army had ill been in the field. In view of the fact that the prisoners in question were women serving in the communications and espionage ranches of the Resistance Movement, this possibility was eliminated om the very beginning.

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E. Voluntary Participation of Experimental Subjects

a. Introduction

There was considerable contention in the case as to whether an inmate of a German concentration camp could give his voluntary consent to participate in medical experiments. The prosecution argumentation on this point appears in the opening statement on pages 27–74 and in the closing statement. The applicable extract from the closing statement of the prosecution appears below on pages 980 to 983. Selections from the defense argumentation on this point have been taken from the closing brief for the defendant Karl Brandt and from the final plea for the defendant Ruff. These appear below on pages 983 to 992. The following selections from the testimony have been taken from the evidence on this point: Extracts from the direct examination of the prosecution witness Dr. Eugen Kogon, and extracts from the cross-examination and redirect examination of the prosecution's expert witness Dr. Andrew C. Ivy. These extracts appear below on pages 993 to 1004.

b. Selection from the Argumentation of the Prosecution

*EXTRACT FROM THE CLOSING STATEMENT OF THE PROSECUTION**

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* * * It is the most fundamental tenet of medical ethics and human decency that the subjects volunteer for the experiment after being informed of its nature and hazards. This is a clear dividing line between the criminal and what may be noncriminal. If the experimental subjects cannot be said to have volunteered, then the inquiry need proceed no further. Such is the simplicity of this case.

What then is a volunteer? If one has a fertile imagination, suppositious cases might be put which would require a somewhat refined judgment. No such problem faces this Tribunal. The proof is overwhelming that there was never the slightest pretext of using volunteers. It was for the very reason that volunteers could not be expected to undergo the murderous experiments which are the subject of this trial that these defendants turned to the inexhaustible pool of miserable and oppressed prisoners in the concentration camps. Can anyone seriously believe that Poles, Jews, and Russians, or even Germans, voluntarily submitted themselves to the tortures of the decompression chamber and freezing basin in Dachau, the poison gas chamber in Natzweiler, or the sterilization X-ray machines of Aus-

*Closing statement is recorded in mimeographed transcript, 14 July 1947, pp. 10718–10796.

chwitz? Is it to be held that the Polish girls in Ravensbrueck gave their unfettered consent to be mutilated and killed for the glory of the Third Reich? Was the miserable gypsy who assaulted the defendant Beiglboeck in this very courtroom a voluntary participant in the sea-water experiments? Did the hundreds of victims of the murderous typhus stations in Buchenwald and Natzweiler by any stretch of the imagination consent to those experiments? The preponderance of the proof leaves no doubt whatever as to the answer to these questions. The testimony of experimental subjects, eyewitnesses, and the documents of the defendant's own making, establish beyond a shadow of a doubt that these experimental subjects were nonvolunteers in every sense of the word.

This fact is not seriously denied by the defendants. Most of them who performed the experiments themselves have admitted that they never so much as asked the subjects whether they were volunteering for the experiments. As to the legal and moral necessity for consent, the defendants pay theoretical lip service, while at the same time leaving the back door ajar for a hasty retreat. Thus, it is said that the totalitarian "State" assumed the responsibility for the designation of the experimental subjects, and under such circumstances the men who planned, ordered, performed, or otherwise participated in the experiment cannot be held criminally responsible even though nonvolunteers were tortured and killed as a result. This was perhaps brought out most clearly as a result of questions put to the defendant Karl Brandt by the Tribunal. When asked his view of an experiment, which was assumed to have been of highest military necessity and of an involuntary character with resultant deaths, Brandt replied:

> "In this case I am of the opinion that, considering the circumstances of the situation of the war, this state institution, which has laid down the importance of the interest of the state, at the same time takes the responsibility away from the physician if such an experiment ends fatally, and such responsibilty must then be borne by the state." (*Tr. p. 2567.*)

Further questioning elicited the opinion that the only man possibly responsible in this suppositious case was Himmler, who had the power of life and death over concentration camp inmates, even though the experiment may have been ordered, for example, by the Chief of the Medical Service of the Luftwaffe and executed by doctors subordinated to him. Most of the other defendants took a similar position, that they had no responsibility in the selection of the experimental subjects.

This defense is, in the view of the prosecution, completely spurious. The use of involuntary subjects in a medical experiment is a crime,

and if it results in death it is the crime of murder. Any party to the experiment is guilty of murder and that guilt cannot be escaped by having a third person supply the victims. The person planning, ordering, supporting, or executing the experiment is under a duty, both moral and legal, to see to it that the experiment is properly performed. This duty cannot be delegated. It is surely incumbent on the doctor performing the experiment to satisfy himself that the subjects volunteered after having been informed of the nature and hazards of the experiment. If they are not volunteers, it is his duty to report to his superiors and discontinue the experiment. These defendants have competed with each other in feigning complete ignorance about the consent of the experimental victims. They knew, as the evidence proves, that the miserable inmates did not volunteer to be tortured and killed. But even assuming the impossible, that they did not know, it is their damnation not their exoneration. Knowledge could have been obtained by the simple expedient of asking the subjects. The duty of inquiry could not be clearer and cannot be avoided by such lame excuses as "I understood they were volunteers," or, "Himmler assured me they were volunteers."

In this connection, it should never be lost sight of that these experiments were performed in concentration camps on concentration camp inmates. However little, some of these defendants say they knew of the lawless jungles which were concentration camps, where violent death, torture, and starvation made up the daily life of the inmates, they at least knew that they were places of terror where all persons opposed to the Nazi government were imprisoned without trial, where Jews and Poles and other so-called "racial inferiors" were incarcerated for no crime whatever, unless their race or religion be a crime. These simple facts were known during the war to people all over the world. How much greater then was the duty of these defendants to determine very carefully the voluntary character of these experimental subjects who were so conveniently available. True it is that these defendants are not charged with responsibility for the manifold complex of crimes which made up the concentration camp system. But it cannot be held that they could enter the gates of the Inferno and say in effect: "Bring forward the subjects. I see no evil; I hear no evil; I speak no evil." They asked no questions. They did not inquire of the inmates as to such details as consent, nationality, whether a trial had been held, what crime had been committed, and the like. They did not because they knew that the wretched inmates did not volunteer for their experiments and were not expected to volunteer. They embraced the Nazi doctrines and the Nazi way of life. The things these defendants did were the result of the noxious merger of German militarism and Nazi racial objectives. When, in the face of

a critical shortage of typhus vaccines to protect the Wehrmacht in its Eastern invasions, Handloser and his cohorts decided that animal experimentation was too slow, the inmates of Buchenwald were sacrificed by the hundreds to test new vaccines. When Schroeder wanted to determine the limit of human tolerance of sea water, he trod the path well-worn by the Luftwaffe to Dachau and got forty gypsies. These defendants with their eyes open used the oppressed and persecuted victims of the Nazi regime to wring from their wretched and unwilling bodies a drop of scientific information at a cost of death, torture, mutilation, and permanent disability. For these palpable crimes justice demands stern retribution.

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c. Selections from the Argumentation of the Defense

EXTRACTS FROM THE CLOSING BRIEF FOR DEFENDANT KARL BRANDT

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Voluntary Participation

Experiments on persons who offer themselves voluntarily have always been considered admissible. In literary works care is always taken *to note this voluntariness;* where it is not mentioned, one may conclude that it was nonexistent.

The interest taken in the voluntariness of the person experimented upon has various reasons.

First of all the compulsory experiment—in contrast to the voluntary experiment—means an additional, very heavy mental strain, for the experimenter since the health and life of a human being may be at stake and the future existence of the person experimented upon may be imperiled.

But the experimenter has not only a purely human interest in having the person to be experimented upon offer himself with a certain voluntariness; in many cases he must absolutely depend on the *cooperation of the person experimented on;* he needs truthful information about observations made during the experiment, which cannot otherwise be carried out properly. Compare for instance the high-altitude and sea-water experiments.

Finally there may exist the wish to be protected against *claims for damages* and to prevent the *uncovering* of legal provisions, as well as to guard against the possible *political odium* that might result from having given orders for a forced experiment.

However, one look at the literature shows that the notion of *voluntariness* is *strongly suspect*, and every critical reader will in most cases associate himself with such suspicions.

The subjection to an experiment which is dangerous or even only painful or temporarily onerous must be based on a special motive.

Ethical reasons alone can give rise to voluntariness strictly speaking only in the case of the researcher himself, that is in self-experiments, and in the case of persons who for ethical reasons consciously wish to support by their cooperation the aims of the researcher.

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However, if a declaration of voluntariness is made for reasons of *inexperience*, *thoughtlessness*, or *distress*, then it is unethical. Into this category fall cases where persons are induced to undergo experiments through promise of money or other advantages, while they do not foresee the meaning of the experiments. These are the weak, who, unprotected, are made to serve the interests of humanity. Compare with this the case of the use of immigrants for experiments. (*Becker-Freyseng 60a*, *Becker-Freyseng Ex. 59.*) The *category* here of particular interest is that of *prisoners* who offer themselves voluntarily.

First of all, one cannot assume that the *ethical level in a penitentiary* is so high above that of free men that here a great number of prisoners would offer themselves for participation in an experiment voluntarily only for purely ethical reasons. On the contrary, one can say that *all prisoners* are living under a certain *compulsion.* They expect from their participation in the experiment an improvement of their position or fear a worsening in case of refusal. Even though the regulations about the treatment of prisoners may be fixed, in practice there remains in this particular world a very wide scope for the punishment of prisoners with measures which, as experience shows, may hit the prisoner much more severely and more grievously than the sentence of the judge itself.

If the motive of the prisoner for his "voluntary offer" is merely a general *and vague hope*, in any direction, then there is no genuine declaration of voluntariness, but the consent is merely the off-shoot of his condition of constraint.

Two things have to be considered with regard to the prisoner's declaration of voluntary consent; the *risk* which he undergoes and the *advantage* that is offered him. One can only give one's consent to something of which one knows the full *meaning* and *importance.* The prisoner must therefore have been fully informed of the possible consequences. Here only lies the real problem of "voluntariness." It is not enough that the person to be experimented upon knows that, for instance, a malaria experiment is to be made; he must also know just how the particular person is to be used. The first easy series of experiments cannot be compared with the daring final experiments. Who is going to offer himself for the ultimate experiment necessary if the other persons to be experimented on get off more lightly? What was the nature of the consent?

Professor Ivy as expert witness has said nothing about this problem. As a matter of fact a person to be experimented on can hardly estimate the risk, and the recruiting officer will not be inclined to give a frightful description of what may happen. Professor Ivy, who has recruited volunteers himself, does not consider experiments to be an evil. If you add that the "volunteer prisoner" has to forego all claims in case of injury to his health, then the consent of the prisoner cannot be considered as valid.

On the other hand the prisoner must know the advantage promised him as his *compensation* must be in suitable relation to the severity of the experiment and the reward must be assured to the prisoner. If the advantage is strikingly disproportionate to the risk and given as an act of grace without claim after the conclusion of the experiment, then there is no voluntary experiment; it remains a forced experiment.

Only if both basic conditions are fully met will it be possible for the prisoner to make a free decision. He may then allow his possible death to be included in the bargain in order to gain the chance of shortening the time of his imprisonment by years.

Such a case is depicted in the well known pellagra experiments, where with the collaboration of attorneys as defense counsellors, the conditions were agreed upon by the prison administration. (*Karl Brandt 47, Karl Brandt Ex. 54; Becker-Freyseng 60a, Becker-Freyseng Ex. 59.*)

This is the *classical case of a voluntary experiment in prison.* It will not always be possible or necessary to fix the advantage in the same manner; the official promise of the prison institute may be sufficient to exclude an arbitrary denial of the promise. Examples for that are the leprosy experiments on a person condemned to death, and the continuous experiments in the penitentiary Bilibid. (*Becker-Freyseng 60a, Becker-Freyseng Ex. 59.*)

These experiments must be considered admissible as *experiments where a chance is given.*

The examples from medical literature, however, show that these general conditions for voluntariness were not always fulfilled. So we refer only to the experiments in the penitentiary San Quentin with streptococci on 25 convicts in 1946. (*Becker-Freyseng 60a, Becker-Freyseng Ex. 59.*)

Accordingly, even experiments carried out on persons without their consent must be considered admissible.

Involuntariness

There are some examples of experiments carried out abroad which were carried out as *compulsory experiments* on prisoners *without* their *consent.* As an example may be mentioned the poisoning experiment

carried out in *Manila* on 11 prisoners sentenced to death. (*Becker-Freyseng 60a*, *Becker-Freyseng Ex. 59.*) The persons subjected to experiments were executed immediately after as part of the experiment. The *malaria experiment* carried out on 800 prisoners has to be mentioned too. According to an explicit statement in the press, no advantages were granted them in return. (*Karl Brandt 1*, *Karl Brandt Ex. 1.*)

The method described by the witness Ivy was introduced later on as a practice of the administration.

It is evident that in these cases no declarations of voluntariness could have been made because no criminal who is sentenced to death will make himself available first for experiments *where he has no chance*, unless there is some hope of a favor shown to him. But in the case of poisoning experiments there was *no question of commutation of the sentence* because the purpose of the experiment was the study of the effect of poison on corpses. Thus, execution was included as part of the experiment.

Concerning the malaria experiments the press notice explicitly said that *no privileges of any kind* were granted, thereby referring to the task of the prisoners, as "social parasites", to help fight the mosquitoes as equal social parasites.

One must conclude that compulsory experiments are admissible, but one *cannot* draw the conclusion that the state is authorized to use the prisoners at random for any experiment whatever by way of punishment.

The gravity of the experiment must stand in a *certain proportion* to the gravity of the crime. The expiation must be such as can be expected. This very idea of the reasonableness of the demand is expressed in the malaria experiment mentioned where reference is made to the socially negative attitude of the persons subjected to experiments, thus applying the idea of *expiation.*

The same fundamental idea might have led to the resolution to use conscientious objectors for the experiments. It seems that here *expiation* has been demanded from the same point of view of a *socially inimical attitude.* It does not seem unfair if a *conscientious objector*, as a deserter, is subjected to experiments if he adopts this attitude only in wartime and if this attitude helps him to escape behind prison walls, thus withdrawing from dangers which the soldier at the front has to bear for the sake of the community. For the soldier, this danger may consist in a dangerous epidemic disease, to which he is exposed in wartime especially.

The idea of compulsory experiments in the sense of an experiment of expiation has been proposed as an *expiation measure* with regard *to prisoners of war and political prisoners* and has not been objected to even by the public. So the less ethically orientated opinion of the

day frequently expresses the view that experiments on criminals should be carried out for the purpose of expiation.

Even in the press these opinions have their representatives. So among others a reference appeared in the London paper "The People" of 3 March 1946 (*Karl Brandt 114.**) There the following is said: "People believe that all these men (the defendants at the International Military Tribunal) will die. It is the opinion of many that they ought to have died months ago and ought to have been shot three days after arrest by court-martial sentence. Others are of the opinion that they should *expiate their crimes* by being subjected to cancer, leprosy, and tuberculosis experiments."

It is significant in this excerpt that it is a well-known English author, Llewellyn who passes it on, and he does not adopt a disapproving attitude to it.

Accordingly, it can be ascertained that such experiments of expiation on *political opponents*, *prisoners of war*, *and civilians* can be looked upon as *reasonable* and admissible, if these persons, as convicted *criminals*, are subject to *punishment* and if the law relating to the serving of sentences permits experiments of that kind.

The *Geneva Convention* in Article 46 provides for a restriction only insofar as no punishments may be inflicted on prisoners of war apart from those that are admissible for members of the army of one's own country; the same must be applied to civilians.

In comparison with this, no restrictions exist with regard to the execution of punishment in cases of *criminal* offenses. Therefore the penal execution law, admissible in each state, can be applied.

If therefore compulsory experiments for expiation can be carried out on an American citizen, they could be applied in the same way to a German prisoner of war, assuming that the latter has been sentenced under penal law. In accordance with this, the same must be admissible in the execution of German penal law if the *foreign prisoner* has been legally sentenced to punishment.

The foreign criminal is not in a better position than the subject of one's own country.

The compulsory experiment must have its limits.

Here one must distinguish between responsibility for the *arrangement of the experiment* and for its *conduct.* In both cases the physician can have a share in it. The *decision for the conduct* of experiments on human beings can come from two sides, different in character. The demand can result from urgency in the interests of the community and can be vindicated by *the state.* During the war, experiments can be demanded by the *armed forces* in case of epidemics to be expected, such as malaria, typhus, and the like.

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*Document rejected by the Tribunal.

On the other hand the suggestion can come from the *research side* itself, which perceives a possibility of combating an evident state of distress, through the progress of medical science, and also demands experiments for the sake of the community.

The decision concerning the necessity for such experiments is a *decision of usefulness taken by the state*, consequently a *political* decision, signifying a balancing of expenditure and of success to be expected or hoped for.

There are different kinds of questions which have to be decided; first of all there are economic questions to be solved by the competent authorities; i. e., financial questions, supply of specialists, laboratories and so on.

Responsible for it are offices with means and possibilities available, which can dispose of them according to their own judgment. These offices are divided further according to their special interest in individual special spheres, such as air navigation, *Wehrmacht*, and the like.

No decisions can be made by an authority *without any means at its disposal;* this is valid for instance for the office "Science and Research" of the defendant Karl Brandt, which fulfilled only a recording and coordinating function within certain medical spheres. Evidently the activity of the *Reich Research Council* was chiefly that of an organ of control and had to eliminate superfluous research during the war by refusal of subsidies in order to help the small number of specialists and material by allotment of priority ratings and financial means. This was the task of the Reich Research Council and in the medical sphere this part of its general regulating activity was very small.

These offices had *no power of decision as to whether experiments on human beings* could be made or not, and they could not have it. The office which regulated the *infliction of punishment* and disposed of human beings subjected to experiments was the only office to take decisions. This corresponds to what is known about the conduct of experiments on human beings abroad, where the decision was also taken by administrative offices.

The *authority for the infliction of punishments*, as the authoritative office of the state, makes its *independent* decision while *politically balancing* the *necessity* for arranging experiments in the interests of the community against what can be expected of the condemned. Applied to German conditions during the war it means the following:

If the condemned are under the control of the authorities of justice competent for the execution of sentences, the responsibility rests upon the *Reich Minister of Justice;* if the execution of sentences is carried out by the *Reich Leader SS and the Chief of Police* in the concentration camps, the latter has to be responsible for it.

In this situation *the responsibility of a physician* can be of value

for a decision only so far as he gives a false *expert opinion* about the prospects of the experiment.

The government has to make the final decision about the admissibility of experiments on human beings; the government only has to decide whether experiments on human beings are necessary in order to combat dangers and injury to health, as it is responsible for everything pertaining to health. In connection with this compare the regulation of the French Government in 1858 for the purpose of clearing up the question concerning the treatment of secondary syphilis and the experiments made on human beings. (*Karl Brandt 48*, *Karl Brandt Ex. 55.*)

In war time, the decision is also conditioned by considerations concerning *the preservation of the state*, which are *dependent on war conditions.* Epidemic diseases can have a decisive influence on the result of the war and might in the end be of a greater importance than battles, as for instance the plague during the siege of Athens, or typhus during the advance of Napoleon into Russia. Biological warfare is the result and was prepared intensively by the enemies of Germany, as the foreign press openly informed us.

In the same way as the state demands the *death* of its best men as soldiers, it is entitled to order the death of the condemned in its *battle* against epidemics and diseases. *No antique sacrifices to gods and demons* are demanded any longer, only a *well considered expiation* as a help for the community and indeed exclusively in its interest.

The actual *responsibility* of the physician lies in the *conduct of the experiment itself.* The experiment has to be conducted by the physician, but the *political responsibility for it rests upon* the state, while the physician is responsible for its conduct.

If the physician considers that an experiment is not feasible it can become a *crime* and the physician has to refuse to carry it out.

In carrying out the experiment every attention must be paid to all *regulations* of medical practice concerning *medical research* at the time.

All possible preliminary *experiments conducted on models* have to be made before experiments on human beings are started. That means that preliminary experiments in laboratories, experiments on animals and so on, have to be conducted. In case of need even experiments carried out on the researcher's own person belong to the preliminary experiments.

Generally, responsibility for the *extent of the experiments* rests upon the physician. In the arrangement of the experiments the number of the persons selected for experiments must be as great as necessary in the interests of the result of the experiment, but in the interests of the persons selected for the experiment the number must be as small as possible.

The conduct of the *experiment* must be *correct* and *excesses* which could increase its danger *have to be avoided.*

Finally, the *experiment must be stopped* by the physician if it is evident that the expected result is attained or most probably will not be attained.

The *assignment of persons* needed for an experiment in the course of infliction of punishment can take place only at the instigation of the executory office in whose custody the prisoner is held.

* * * * * * *

It has been pointed out that many persons used for experiments were *foreigners*, and that this fact should have prevented experiments on them. In this connection the following reference is made:

It is a fact that strong resistance movements in the West, and especially in the East, waged a total partisan war against the German troops and caused bloody sacrifices. International law does not object to capital punishment for participants in illegal combat and illicit sudden attacks against members of the occupation army. If, therefore, instead of the permissible execution of capital punishment, mitigation through an attempt at expiation occurs, special consideration should be given to this fact.

The reproach that no experiments should have been made on *political prisoners* contradicts the fact that the political opponent, in all countries and at all times, has in most cases been punished more severely than the criminal, namely on the basis of criminal law governing treason, espionage, and contravention of war measures, i. e., political orders. Reference is hereby made to the fact that every occupation army threatens capital punishment for many, otherwise insignificant, offenses.

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*EXTRACTS FROM THE FINAL PLEA FOR DEFENDANT RUFF**

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Prisoners as voluntary experimental subjects

The question has repeatedly come up in this trial whether or not the experimental subjects in the Dachau high-altitude experiments by Ruff-Romberg were volunteers, although the people were in *detention*, that is to say, indisputably under duress.

The expert Professor Dr. Leibbrandt has held to his one-sided opinion in this respect too, and has advocated the theory that prisoners can never be regarded as volunteers. This opinion is doubtlessly false; in other times, the expert perhaps would not have supported it. For

*Final plea is recorded in mimeographed transcript, 17 July 1947, pp. 11154–11176.

the administration of justice in other cases also accepts legally binding statements of prisoners, and does not think of declaring them legally ineffective, only for the reason that the prisoner in consequence of his imprisonment finds himself in an embarrassing situation, and therefore not completely master of his own free will.

One surely is not mistaken in supposing that none of the defendants, even if he has ever such great experience as a medical man, at that time thought without exception of all the possibilities which we have to consider now, when for many months we have had to search for the legal basis of the whole problem of human experiments, and have had to think of all eventualities. According to his sentiment, at that time each physician and research man said to himself: If the experimental subject agrees to the experiment, everything is all right. For this always appeared to the physicians to be the highest principle: An experiment is legal if the experimental subject agrees to it, provided that the physician observes the necessary care when performing the experiment. As proved here by this trial, there exists in no country a written law regulating the legal conditions of experiments on humans. On the other side, however, the human experiment is such a far-reaching and often such an indispensable matter that one might speak of an unwritten law, which generally and tacitly is accepted and acknowledged by the whole world. Counsel for some of the defendants have demonstrated to the Tribunal in their document books the opinion of the whole world on this unwritten law, in the most varying degrees, from the absolutely harmless to the absolutely deadly experiment, and has certainly thereby compiled valuable material which is suitable for forming the basis of a codification of this unwritten medical law and to show safe future roads for the development of justice in this sphere. Lacking a written law, the physician and research man even today can only recognize the conventional legal concept as a rule for his conduct as expressed in international medical literature.

* * * * * * *

When reading this international literature, however, there cannot be any doubt that the volunteering of the experimental subjects warrants in every case the legality of human experiments, and that, therefore, the more sentimental attitude of our research workers was right when, because of their knowledge of international literature, they made the question of the legality of human experiments depend in the first place on the voluntariness of the experimental subjects.

As far as one can see, international medical literature up to date nowhere represents the opinion that the consent of a prisoner is ineffective because, by reason of his imprisonment, he had no free will. On the contrary, in many cases it has taken an important step forward, and had frequently, without meeting any opposition, reported on

experiments performed on prisoners whose consent was not regarded as essential. Many experiments, some of which were reported on here in Court, and some of which are described in the documents submitted by the defense, demonstrate clearly that obviously the opinion prevails everywhere that in the case of prisoners, in particular those who have been sentenced to death, the consent of the prisoner to the experiment can be replaced by the permission of the authorities, even in the case of experiments which were very dangerous and where fatalities occurred in more or less large numbers. The published reports also talk about the number of deaths in the experiments described, some slightly camouflaged but to a large extent openly, without the research worker or the reader realizing that murderous actions were being reported, because otherwise the reaction would have been a completely different one.

The question becomes particularly acute if these experiments were carried out in a totalitarian state or during a total war. It is not the point in this connection whether a dictatorial regime is desirable or should be rejected, nor whether a war as such appears to be criminal (for example because it will be judged as an aggressive war later on); the attitude that, under such exceptional conditions as exist in a dictatorship or total war, even life-endangering experiments on human beings may perhaps be more justified than under normal conditions is obviously based on the thought that the state governed by dictatorship can and will ask for greater sacrifices, from criminals too, especially during total war.

As a matter of fact the following thought appears to have occurred to many a defendant during this trial: During a total war the state asks everybody to be ready at any time to serve at the front, and during the aerial war every woman and every child at home is exposed daily and every hour to mortal danger; many a citizen would therefore think it unsatisfactory if a criminal, who is burdened with heavy guilt or may even have committed a crime punishable with death, remains free from all danger, in other words is in a better position than the upright citizen.

It appears now that many an experimental subject who was used at that time for experiments was of the same opinion, because the witness Karl Wolff stated on oath that the prisoners to whom he spoke in Dachau said, that "they would contribute voluntarily to Germany's war effort and show a sign of their actual good will." (*Ruff 21*, *Ruff Ex. 20.*) The same ideas were also stated by various defendants during their interrogation.

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d. Evidence

Testimony

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EXTRACTS FROM THE TESTIMONY OF PROSECUTION WITNESS EUKEN KOGON*

DIRECT EXAMINATION

* * * * * * *

MR. MCHANEY: Before we go into the details of the typhus experiments, I would like to ask you if you know anything about the manner in which subjects were selected for the experiments which you have mentioned and which took place in Buchenwald?

WITNESS KOGON: The selection of experimental subjects was not the same at different times. In the very first period the inmates of the camp were called upon to volunteer. They were told that it was a harmless affair; that the people would get additional food. After one or two experiments it became impossible to get any volunteers whatever. From then on, Doctor Ding asked the camp physician or the SS camp commandant to select the suitable persons for the experiments. He had no special directives for this. The camp administration chose people arbitrarily from among the prisoners, whether they were criminals, or political prisoners, or homosexuals. Intrigue among the prisoners themselves also played a role in the selection, and occasionally people came for whom there was no special reason, but they came into the experiments. From the fall of 1943, approximately, the camp leaders did not want to keep the responsibility for the selection of experimental subjects. Doctor Ding himself no longer wished to have verbal instructions from Mrugowsky to carry out the experiments, but he demanded written orders. For this purpose he approached Mrugowsky with the request that the Reich Leader SS should appoint his own people for the experiments. SS Gruppenfuehrer Nebe of the Reich Criminal Police Office in Berlin then, according to a directive from Himmler which I saw, ordered that only those people were to be used who had at least a ten-year sentence to work out. Then, the officials of the Reich Criminal Police Office in Berlin twice selected 110 and 99 people in Buchenwald, who were made available for the experiments. They were exclusively criminals with a previous record. In the last period, people were selected from various concentration camps and prisons in Germany. Transports came to Buchenwald with these people. In addition to this, political

*Complete testimony is recorded in mimeographed transcript, 6, 7, 8 Jan. 1947, pp. 1150–1290.

prisoners from the camp itself were almost always included in these series of experiments, either because they were inconvenient to the SS in some way or because they were victims of camp intrigues.

Q. Were all of these experimental subjects condemned to death, who were experimented on in Block 46?

A. I do not know of a single case in which anyone came to the experimental station in Block 46 because he had been condemned to death. Once in the case of four Russian prisoners of war, it was claimed that they were to be shot, but there was no judgment, no sentence. They belonged to the category of Russian prisoners of war, of whom about 9,500 were shot, hanged, or strangled in Buchenwald.

Q. Were any special considerations or favors granted to the experimental subjects who survived these experiments?

A. During the first two or three weeks before the experiments were carried out, the experimental subjects received better food in order to get them into the condition of a normal German soldier. Apart from that, none of the prisoners who survived received any advantages, and they were never promised any such thing.

Q. Was an effort made to pick experimental subjects who were in good physical health, that is, comparable to a Wehrmacht soldier?

A. The condition did exist, and as far as was compatible with the other conditions of selection, it was fulfilled.

* * * * * * *

Q. Mr. Kogon, at the conclusion of yesterday's session you had explained to us the manner in which experimental subjects were selected for the medical experiments in the Buchenwald camp. Will you tell the Tribunal whether any non-German nationals were experimented on?

A. Among the experimental subjects who had been selected for Block 46, there were not only Germans but also Poles, Russians, and Frenchmen, particularly during the last years.

Q. Were there any prisoners of war experimented on in Block 46 to your knowledge?

A. Yes.

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EXTRACTS FROM THE TESTIMONY OF PROSECUTION EXPERT WITNESS DR. ANDREW C. IVY*

CROSS-EXAMINATION

* * * * * * *

DR. SERVATIUS (Attorney for defendant Karl Brandt):

*Vice President of the University of Illinois in charge of the College of Medicine, Dentistry, Pharmacy, and Nursing, and distinguished professor of physiology at the Graduate School of the University of Illinois.

Complete testimony is recorded in mimeographed transcript, 12, 13, 14, 16 June 1947, pp. 9029–9324.

Witness, yesterday you testified that voluntary consent is the first prerequisite for human experimentation. Previously you had said that you yourself had been reluctant to apply for volunteers. Is that so?

WITNESS DR. IVY: No.

Q. Didn't you say just now that you didn't want to ask your students to volunteer but left that to other agencies so that your authority might not constitute some form of coercion?

A. Yes, that is insofar as my personal direct request to the individual is concerned, I thought, because of my position as a professor, it might unduly influence the student to say yes.

Q. You were probably of the opinion that your authority might persuade him to do something that he otherwise would not do.

A. Yes—through individual contact.

Q. I say, Professor, don't you know that in general the volunteer aspect of the person's consent has been under suspicion?

A. I don't understand that question. Will you repeat it?

Q. Is it not so that in medical circles and also in public circles these declarations of voluntary consent are regarded with a certain amount of suspicion; that it is doubted whether the person actually did volunteer?

A. Can you be more specific?

Q. In your commission you probably debated how the volunteers should be contacted; is that not so?

A. Yes.

Q. On this occasion was there no discussion of the question that you should assure yourself that no coercion was being exercised, or that the particular situation in which the person found himself who applied was being exploited?

A. Yes. I was concerned with that question.

Q. There were discussions about that?

A. Not necessarily with others, but there was always consideration of that in my own mind.

Q. Witness, a number of documents were submitted yesterday, Friday, from which it was to be seen that volunteers did volunteer, for instance eight hundred or more prisoners applied for a malaria experiment*; and there was a radio report; all of these persons had a motive for volunteering. What are the motives of a prisoner that persuade him to volunteer?

A. These prisoners said they volunteered in order to help people who might have malaria.

Q. In this report the individual persons were asked, five or six of them were—one says that he volunteered because he is condemned

*Counsel for the defendant Karl Brandt refers to experiments carried out in the United States during World War II.

to life imprisonment, and he has applied to oblige the army. Another says that he is doing it because his brother is a soldier at the front and has malaria. And another one says—two of my brothers in the army had malaria; and a third one says in the last war—

MR. HARDY: Dr. Servatius refers to Document NO-3450, Prosecution Exhibit 519 for identification, and I request that he supply the passages so that Dr. Ivy can properly testify.

DR. SERVATIUS: Witness, from this radio report I shall read the answers of the experimental subjects to you. One Mr. Quall says: "I expect, Captain Jones, that these men have many reasons for their volunteering for this war."

CAPTAIN JONES: "Yes, they have. Many have sons and brothers in the armed services, others have other patriotic motives, but I am not the one to tell about them."

QUALL: "I get the point."

CAPTAIN JONES: "With the permission of Warden Rangen we are going to talk to several of these volunteers right now. Here is a man who is older than some of the others. What is your name?"

JOHNSON: "I am George Johnson, number so and so."

QUALL: "Johnson, I have heard you have a pretty high fever as a result of these tests."

JOHNSON: "That is right; at one time my temperature was 108 degrees."

QUALL: "108 degrees, and you are here to tell the story."

JONES: "What was your main reason for volunteering for these tests?"

JOHNSON: "I served in the U. S. Army during the First World War, and here, by going through with these tests, I helped some of my buddies in the war just ended."

QUALL: "Thanks, Johnson. Now, here is Charles Eirtz, number so and so."

EIRTZ: "My brother was killed in the crossing of the Saar [Sarre] River; that made up my mind for me; we weren't being shot at here; it was the least we could do."

QUALL: "And here is George Storm; George Storm, number so and so."

STORM: "Two of my brothers in the service caught malaria. If I can help the Army, I can help my brothers."

QUALL: "Here is a man who is one of the many inmate nurses helping out in the war. What is your name?"

LEOPOLD: "Nathan Leopold, number so and so. I was a malaria volunteer, and now I am acting as a nurse."

QUALL: "How do most of the patients react under these tests?"

LEOPOLD: "All the men are good soldiers; their morale is high."

QUALL: "Now, two inmates who are no strangers to malaria."

WALKER: "My name is George Walker, number so and so, and my nephew is a malaria patient in an Army hospital."

MCCORMACK: "I am James McCormack, number so and so. My brother is in the Army, too. If these tests will help cure him of malaria, it will all be worth while."

QUALL: "Medical officers are particularly interested in this next case. Your name?"

NORMAN: "Al Norman, number so and so."

QUALL: "Why is your case unusual, Norman?"

NORMAN: "Because I have had five relapses since I first contracted malaria; that is the highest number any patient had."

I shall stop reading. I believe this gives the general impression. Is it correct that all of them are giving idealistic reasons as the motive?

MR. HARDY: Prior to the question I suggest that the document be handed to Dr. Ivy, if he wishes to refer to other sections of it in his answer.

DR. SERVATIUS: I shall do so immediately; however, I have one question first. Are these not all idealistic points of view as the person's motive?

WITNESS DR. IVY: Yes. On the basis of my discussions with people who observed these experiments at Stateville, Illinois, the idealistic motivation of this group was very high. As a matter of fact, the effect of this public service rendered by these prisoners is being followed up to see whether or not it has special reformative value, and up to the present time this question indicates that this public service has been of great reformative value, in that the incidence of return to criminality under parole is markedly decreased.

Q. Do you know Nathan Leopold, or do you know who he is?

A. Yes.

Q. Is it true that he was condemned to fifteen years in the penitentiary for murder?

A. To much more than that.

Q. Do you think he is the right person to give an opinion regarding the high morale status of the inmates of a penitentiary?

A. He can never expect to get out of the penitentiary, and I see no reason why he should not express himself, without any duress or coercion, accurately and as he feels.

Q. I will show you this report, and please ascertain if you have any remarks to make about it.

A. No, I have none.

Q. The idealistic points of view are associated with the state of war, are they not, aside from the last one?

A. No, I do not agree, because if any coercion were brought to bear upon these prisoners to serve in medical experiments, that would soon—within a week—come to the attention of the newspaper reporters

and would appear on the front page of every paper—most every paper in the United States.

Q. I should like to tell you again what Jones says here. He says: "Others have patriotic motives * * * many have sons and brothers in the armed services." Captain Jones gives that as the main reason. And then other individuals are brought up who make statements in the same sense to the same effect. Is that not so?

A. I believe that is entirely reasonable; because an individual is a prisoner in a penitentiary is no reason why he should not be patriotic or love his country.

Q. Perhaps you will admit that no one would give that as his motive for helping before a German de-Nazification court, namely, that he wanted to help the army.

A. I did not get the question. Will you please repeat it?

Q. Never mind. Now, Witness, of the experiments we have here, none of these volunteers were outside the penitentiary; now, why did not persons outside the penitentiary volunteer in the malaria experiments: businessmen or teachers, for example? Because we must assume that not only inmates of penitentiaries have ideals.

A. As I explained yesterday, conscientious objectors were used, and prisoners were used, instead of teachers and businessmen because those individuals had no other duties to perform. Their time was fully available for purposes of experimentation.

Q. Is it not an evil to carry out experiments?

A. No.

Q. You don't think so?

A. It is not an evil to carry out experiments.

Q. But isn't it an evil to have to go through an experiment as an experimental subject?

A. I should say not. I have served myself as an experimental subject many times, and I do not consider it an evil.

Q. Don't you think it is very unpleasant to become infected with malaria, to have fevers, and other undesirable symptoms of that sort?

A. Yes. It is unpleasant, but not an evil.

Q. Perhaps we don't understand each other. You don't want to say it is a pleasure to have malaria?

A. No. It is not a pleasure.

Q. Is it not a very unpleasant and serious disease that lasts for many years?

A. It is unpleasant, yes.

Q. If all these persons apply for idealistic reasons, why are they offered recompense?

A. I suppose it is to serve as a small reward for the unpleasantness of the experience.

Q. Don't you believe that the money was the motive for many of them—a hundred dollars?

A. That is rather small. From the point of view of prisoners in the penitentiary in the United States, a hundred dollars isn't much money.

Q. For a prisoner that would be quite a lot of money, it seems to me, for someone at liberty it is not so much.

A. No. Our prisoners in the penitentiary in the United States, when they work in factories in the prisons, receive pecuniary compensation for that work.

Q. I believe that is so throughout the world.

A. That is put in a trust fund for them to use when they get out.

Q. Do you think that the money is sufficient recompense or compensation for what the experimental subject has to go through?

A. I should not consider it so, and I don't believe that any of the prisoners did. As a matter of fact, I was told that some of them would not accept the money.

Q. If one declares oneself to be a volunteer, must one not weigh the advantages against the disadvantages?

A. I believe so.

Q. The disadvantage here is the risk of a serious disease, the advantage is fifty or a hundred dollars.

A. I should say the advantage is being able to serve for the good of humanity.

Q. For what reason was the money not paid immediately, but in two payments? So far as I remember from a document yesterday, the hundred dollars was paid as follows: fifty dollars after the first month, and the other fifty after one year. In other words, a prisoner has to do his job first. Now, why was that so?

A. I presume that that is just the common way of doing business in the United States when an agreement is involved. I presume the lawyers had something to do with that.

Q. Was the reason not this: that the prisoner would lose his enthusiasm for the experiment and would cease to cooperate? Could that have been the reason for being a little circumspect in the payment?

A. I doubt that.

Q. Do you know of a case where the experimental subject did not wish to continue the experiment?

A. That has not been my experience. And according to the response that I got to that question when I put it to Dr. Irving, he said that no one expressed a desire to withdraw at any time.

Q. Professor, I have seen a document on experiments in hunger that were carried out on conscientious objectors. That appeared in a periodical. It is described how these conscientious objectors went

through considerable unpleasantness and did not want to continue the experiment. They kept their promise only at great effort. Is that known to you?

Mr. Hardy: I suggest that counsel refer to the document that he is talking about at this time and make it available for Dr. Ivy, or make the facts available, the particular data, so that Dr. Ivy will be fully aware of the circumstances.

Presiding Judge Beals: Does counsel have a document which he can make available? Then he will use it.

Dr. Servatius: I have only one copy in English here. (Presented to witness.) I shall have to find the passage I am referring to.

I can't seem to find it. This is a long document and somewhere there is the statement that the experimental subjects have to summon all their forces to remain in the experiment. However, I shall drop the subject for the moment. Witness, is there not another inducement that persuades prisoners to volunteer for experiments? Is not the prospect of pardon or other advantages the reason for applying?

Witness Dr. Ivy: When these malaria experiments started, that prospect was not held out to the prisoners, hence the possibility of a reduction in sentence, in being placed on parole sooner than otherwise, was not a prospect. However, since some of these malaria experiments have been terminated, a reduction of sentences in addition to that allowed for ordinary "good behavior" has been granted by the parole board. For that reason Governor Green of the State of Illinois appointed a committee with me as chairman to consider this question which you have in mind: How much reduction of sentence can be allowed in such instances so that the reduction in sentence will not be great enough to exert undue influence or constitute duress in obtaining volunteers? I have my conclusions ready and can read them to you, if you desire to hear them.

Q. Please do so. May I ask when this committee was formed?

A. The formation of the committee, according to the best of my recollection, occurred in December 1946, when the prisoners with indeterminate sentences were up for consideration for parole. This was the first time the question of reduction in sentence came up.

Q. One more question, Witness. Did the formation of this committee have anything to do with the fact that this trial is going on, or with the fact that this malaria case was published in Life magazine and that it was explicitly stated that the experimental subjects were receiving no compensation, no pardon, reduction of sentence? Is there any connection between those things?

A. There is no connection between the appointment of this committee and this trial, for this reason, that there is a division of opinion regarding the work that the parole boards do. Some believe that the parole boards are too soft; others believe that they are too hard. If

a reduction in sentence were too great, parole boards would be criticized in the newspapers. Obviously the parole board wants to act on the basis of the best opinion on medical ethics that they can obtain. Accordingly, this committee was appointed.

Q. Would you please be so good as to read what you intended before?

A. There are two conclusions:

"Conclusion 1: The service of prisoners as subjects in medical experiments should be rewarded in addition to the ordinary time allowed for good conduct, industry, fidelity, and courage, but the excess time rewarded should not be so great as to exert undue influence in obtaining the consent of the prisoners. To give an excessive reward would be contrary to the ethics of medicine and would debase and jeopardize a method for doing good. Thus the amount of reduction of sentence in prison should be determined by the forbearance required by the experiment and the character of the prisoner. It is believed that a 100 percent increase in ordinary good time during the duration of the experiments would not be excessive in those experiments requiring the maximum forbearance.

"Conclusion 2: A prisoner incapable of becoming a law-abiding citizen should be told in advance, if he desires to serve as a subject in a medical experiment, not to expect any reduction in sentence. A prisoner who perpetrated an atrocious crime, even though capable of becoming a law-abiding citizen, should be told in advance, if he desires to serve as a subject in a medical experiment, not to expect any drastic reduction in sentence."

I might explain, when I used the expression "reduction in sentence in prison," that that implies that when the prisoner is released on parole, he is still under supervision, observation, or sentence outside of prison. He is subject to arrest and return to prison at any time; so when we say reduction of sentence in prison, we do not mean that there is an actual reduction of sentence prescribed by the court. That is the law in the State of Illinois.

Q. Witness, if the experimental subjects are prisoners, are they told about this policy ahead of time?

A. They will obviously have to be told of this policy from now on, since the matter has come up for the first time.

Q. Yesterday a prosecution document was shown to you. That was Document NO–3968, Prosecution Exhibit 517, Department of Justice, Bureau of Prisons, a document from Texas. This was in no document book but was put in only yesterday. I shall have this shown to you immediately. This is a form from the Department of Justice, Bureau of Prisons, a statement of voluntary consent and it says here the following:

"I agree to cooperate to the fullest extent with the physicians conducting the study during an over-all observation period of approximately 18 months. I understand that at the conclusion of the observation period, I am to be furnished with an appropriate Certificate of Merit and a statement of my voluntary cooperation in the study and the fact that I have thus rendered voluntarily an outstanding service to humanity will be placed in my official record."

Is that not a rather extensive promise which might induce a prisoner to apply without having a purely idealistic motive?

A. A Certificate of Merit is an attractive little certificate that the prisoner could have framed and he could hang on the wall of his prison cell. After he was released, he could take it home and show it to his friends, and I think it might serve as an incentive to prevent the previous wrongdoer from going into the ways of wrongdoing again.

Q. Do you not think that it has a very practical usefulness? Do you not think that it would lead the police to treat one a little more leniently?

A. I doubt it, although I can't testify regarding what the police might do.

Q. Don't you think that it would be of some aid when looking for a job after his release?

A. When a prisoner is released on parole, before he is released, a job is found for him.

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REDIRECT EXAMINATION

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MR. HARDY: Now, Doctor, concerning your testimony regarding the conscientious objectors, I have a few points which may tend to clarify this situation in the minds of defense counsel. Would you tell us how a person is classified as a conscientious objector?

WITNESS DR. IVY: Well, first, everyone within a certain age group in the United States had to register.

Q. Register for the draft?

A. For the draft or selective service.

Q. That is, conscription into the United States Armed Forces?

A. Yes. Then at some time later the actual draft occurred. The conscientious objector could announce that he was a conscientious objector to serving in battle or serving with the military organization at the time of registration or at the time of induction or being drafted.

Q. And after he registered his objections to participating in any manner in the Army, was he then allowed to return to his home, or was he asked to cooperate in matters which did not involve things of a military nature?

A. No. He was assigned to the Civilian Public Service Agency and asked if he wanted to cooperate by rendering public service.

Q. And that public service was work as orderly in a hospital and work in various libraries, perhaps, and other public institutions?

A. Yes, or forest fire prevention, and cleaning up the woods.

Q. Was this man, this conscientious objector, in confinement?

A. They were only placed under confinement when they would not cooperate in any way.

Q. Was there a national committee to take care of the interests of the objectors?

A. Yes. As a general rule the conscientious objectors were supervised by a civilian religious group, such as the Quakers or the Mennonites.

Q. Was the conscientious objector under any duty to volunteer for medical experiments?

A. None whatsoever.

Q. However, he was under obligation to work in various libraries or forest fire prevention, etc., if requested to by the committee?

A. Yes. It was necessary for him to render some sort of public service.

Q. Then you determined that you needed experimental subjects. How did it happen that you decided that conscientious objectors might be made available to you?

A. As I recall, the National Research Council, in view of the fact that the medical students and dental students were mustered into the Army and could no longer serve as subjects in experiments in universities and medical school laboratories, took the matter up with the Director of the Civilian Public Service, who then decided that the conscientious objectors might be allowed to volunteer for such work in connection with medical schools and research institutes.

Q. And by that token you were permitted to approach conscientious objectors to ask them whether or not they would volunteer for medical experiments?

A. I or the investigator did not approach the conscientious objectors directly. We requested that a certain number of volunteers be allowed or sent to us through the Director of the Civilian Public Service Agency.

Q. And those conscientious objectors were sent to your university laboratories?

A. Yes. That is correct.

Q. While they were at your laboratory were they living in the dormitories at the university?

A. Yes, in the dormitories or in the hospitals.

Q. Were they under any surveillance at all?

A. One person in the group was appointed as a leader, supervisor of the group, and it was his duty to see that the men carried out their instructions properly and on time.

Q. Was it possible for any one of these objectors to receive leave or to have week end liberty?

A. It was not in most experiments.

Q. Well, assume for the moment that you were not going to use the experimental subject for a period of two or three weeks. Was he in such a position that he could not go on leave or go to the city or was he supposed to remain at your university at all times?

A. No. He could leave for certain periods of time, varying in length from a few hours to a few days, depending upon the nature of the experiment. If it were a dietary experiment, then he had to eat at the diet table all the time.

Q. Then he actually had freedom of locomotion, in contradistinction to a prisoner in an institution or penitentiary?

A. Yes.

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[Further materials from the record in the Medical Case appear in Volume II. See Contents, p. VI, this volume.]

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